



# 2007 AFFORDABLE HOUSING | REPORT

SOLUTIONS TO FLORIDA'S AFFORDABLE HOUSING NEEDS





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*The Florida Department of Community Affairs approved this project and provided the source of funding.*

*The Department's goal is to review and identify methods that will improve housing,  
while planning for growth and development in the state of Florida.*

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2007 Florida Affordable Housing Report

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## TABLE OF CONTENTS

Executive Summary	5
<b>Sections:</b>	
I. Introduction and Purpose	6-7
II. Role and Function of Housing	8-12
III. Methodology	13-15
IV. Literature on Comprehensive Planning Approaches to the Provision of Affordable Housing	16-23
V. Florida's Affordable Housing Needs Assessment	24-28
VI. Efficacy of Housing Elements' Goals, Objectives, and Policies	29-35
VII. Coordination of Federal, State, and Local Housing Programs to Implement the Housing Element	36-45
VIII. Linkage Programs and Inclusionary Zoning as Tools for Providing Affordable Housing	46-57
IX. Additional Tools to Meet the Needs of Very-Low to Moderate Income Households	58-68
X. Housing Requirements of the Development of Regional Impact Process	69-90
XI. Accessory Dwelling Units as Tools for Providing Affordable Housing	91-95
XII. Relevant Findings from a New England Affordable Housing Study	96-100
XIII. Potential Regulatory Barriers to Providing Affordable Housing	101-116
XIV. Model Process for Identifying Affordable Housing Needs and Developing and Implementing an Action Plan	117-118
Table & Addendum Listings	119
References	120-122

## EXECUTIVE SUMMARY

ADG Business and Governmental Consultants was selected to conduct extensive research and analysis in order to advise the Department of Community Affairs (Department) on alternatives to improving the state's affordable housing stock. Although the various affordable housing policies, statutes, codes, and ordinances in the State of Florida show that housing issues have been explored, optimal results have not been accomplished. In general, ADG found:

- *Florida's Affordable Housing Needs Assessment has established the foundation for local governments to determine and plan for their affordable housing needs uniformly; however, the tool needs to be modified and local governments may need additional training regarding how the data may be manipulated to meet changes in community-specific trends affecting the affordable housing market.*
- *Housing Elements of local government comprehensive plans could be modified in eight specific areas to improve the ability of local government to meet affordable housing needs.*
- *Local governments, housing organizations, and affordable housing developers have access to numerous federal, state, and local programs to fund affordable housing; however, the coordination between the program requirements and the Housing Element could be improved.*
- *Local incentives for affordable housing, such as expedited permitting, density bonuses, development fee waivers, can enhance the provision of affordable housing, but additional training regarding these tools, specifically for the Local Housing Advisory Committees of the State Housing Initiative Partnership Program, should be explored.*
- *Linkage programs and inclusionary zoning are additional tools to aid local communities in their affordable housing efforts; however, use of the tools in Florida is limited.*
- *The Adequate Housing requirements of the Developments of Regional Impact Program is not meeting local and regional affordable housing needs and the primary tool for estimating potential affordable housing impacts (the East Central Florida Regional Planning Council's housing methodology) is insufficient. These might be addressed by implementing affordable housing solutions that are equitable for Developments of Regional Impact as well as developments that fall below the Development of Regional Impact thresholds. As an alternative, regional nexus studies and linkage programs could be implemented.*
- *Accessory dwelling unit ordinances have been used as a tool to increase the affordable housing stock with additional benefits, such as aiding the creation of mixed-income neighborhoods. The Florida Legislature enacted an initiative to increase the use of accessory dwelling units as an affordable option for renters in urban areas, but implementation and monitoring efforts could be improved. Further, incentives to increase the number of accessory dwelling units built could be provided.*
- *Regulatory barriers are of concern at the local, regional, state, and national level; however, there is not a universal definition of what constitutes a regulatory barrier and, therefore, the basis for amending regulations to address this growing concern are numerous and varied.*
- *Florida mirrors other areas of the country, such as New England, with an increase in the demand for affordable housing. The State should explore additional opportunities for the Small Cities Community Development Block Grant Program to be used to assist local, affordable housing initiatives. These opportunities should include but not be limited to using Community Development Block Grant Program funding for new construction, the acquisition of land for Community Land Trusts, and the establishment of downpayment assistance programs for first-time homebuyers.*
- *There are provisions of the growth management legislation of other states that may assist Florida's communities to enhance their efforts to plan for and address their residents' affordable housing needs.*

***"Housing is most Americans' largest expense. Decent and affordable housing has a demonstrable impact on family stability and the life outcomes of children. Decent housing is an indispensable building block of healthy neighborhoods, and this shapes the quality of life...better housing can lead to better outcomes for individuals, communities, and American society as a whole. In short, housing matters."<sup>1</sup>***

ADG Business and Governmental Consultants (ADG) was retained by the Department to review and assess applicable housing-related portions of Chapter 163, Part II, *Florida Statutes* (F.S.), and Rule 9J-5, *Florida Administrative Code* (F.A.C.), to determine their effectiveness.

The review examined the requirements of the Comprehensive Plan's Housing Element and the potential impacts of statutory and rule changes on the provision of affordable housing. The review also included surveys with local government officials and evaluated literature on a range of comprehensive planning issues such as (a) Florida's Affordable Housing Needs Assessment, (b) the Housing Element's goals, objectives, and policies, (c) the extent to which federal, state and local housing programs have been useful in the implementation of the provisions of Chapter 163, Part II, F.S., and (d) linkage programs and inclusionary zoning ordinances (including samples of statewide ordinances).

Further, the review evaluated applicable portions of the Adequate Housing Rule of Chapter 380, Part I, F.S., and Rule 9J-2, F.A.C., to determine their effectiveness in identifying and mitigating regional, affordable housing impacts. To accomplish this task, a survey was done of Regional Planning Councils on the subject of Developments of Regional Impact (DRI) to determine which approaches are being used to implement the policies of Chapter 380, Part I, F.S. and Rule 9J-2, F.A.C., as well as their methodologies and measurements of effectiveness. Interviews with representatives of the private sector were also conducted to assess the strengths and weaknesses of the Adequate Housing Rule (9J-2.048, F.A.C.) and to identify incentives and mitigation techniques that have provided affordable housing as part of a Development of Regional Impact.



The effectiveness of the implementation of §163.31771, F.S., on accessory dwelling units was evaluated as the basis of the Department's "2007 Accessory Dwelling Units Report to the Florida Legislature". Additionally, prior affordable housing studies and related literature were critiqued in order to develop a list of opportunities and constraints relative to affordable housing. A Technical Advisory Team was convened to discuss barriers that have inhibited enhancements to Florida's affordable housing stock.

The Report's preliminary findings were submitted to the Technical Advisory Team for input and to ensure that barriers and opportunities for the State of Florida relating to affordable housing were accurately depicted.

Finally, three Small Cities Community Development Block Grant Program recipients were contacted to identify potential sites for affordable housing, while assessing applicable land use regulations and other pertinent factors. Included in this analysis is the development of a model design process using an architectural design pallet for the respective parcels identified.

This Report contains data compilations, useful section summaries, and project findings, in addition to attachments and addendums.



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*"Housing assistance can make a significant difference in the economic well being of low-income families....housing costs are the single largest budget item in a low-income family's budget."*

Sheila R. Zedlewski  
Urban Institute

The pursuit and attainment of housing has been and remains an integral activity of society. Prior to the formation of cities, shelter from the elements and other dangers was the primary role and function of housing. Cities emerged as places that served the common benefits of inhabitants, and the role of housing expanded to include not only shelter, but also as a critical component of the nascent economies. Residents provided purchasing power as well as the means of production for goods and services.

In the United States of America, the role of housing now also includes wealth accumulation through homeownership equity. Since 1900, the percentage of homeowners in the United States has increased from 46.5% to 66.2% in 2000.<sup>2</sup> During the same time period homeownership rates in Florida increased from 46.8% to 70.1%.<sup>3</sup> In 2001, new construction, remodeling investments, and continued appreciation in home prices contributed to primary residences being the largest segment of total assets (27%). This category exceeded total stock wealth (24%), financial assets (19%), other real estate (9%), and other nonfinancial assets such as business equity.<sup>4</sup> At a micro level, the median net worth of all families – the value of all financial assets, including equity in the home, other real estate, vehicles, owned businesses – was about \$35,500, with home equity accounting for \$25,500, or roughly 72%.<sup>5</sup>

The increase in homeownership has been attributed to public policy decisions of the federal government, specifically in the areas of the tax code and government mortgages. Public policy can be generally defined as a system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives.<sup>6</sup> Major public policy initiatives affecting the housing delivery system also have been initiated by state and local governments, such as the following:



- The New York City Tenement House Law of 1867, which establishes standards to regulate conditions in tenements constructed in the mid-nineteenth century to provide inexpensive housing for the poor, especially new immigrants.<sup>7</sup>
- The State of New Jersey institutes mandatory referral of subdivision plats in 1913.
- New York City, New York adopts the first comprehensive zoning code in 1916.
- U.S. Supreme Court, in *Village of Euclid, Ohio v. Ambler Realty Company* (272 U.S. 365 (1926)), upholds the ability of local governments to regulate land use zoning in 1926.
- The State of Ohio passes the first public housing act in 1933.
- The first federally-supported public housing for the general population is constructed in 1934.

Additionally, federal actions have helped to increase the availability of housing:

- Congress passes the National Housing Act of 1934. The Act created the Federal Housing Administration (FHA) and established two basic mortgage insurance programs: Section 203, mortgage insurance for one to four family homes and Section 207, multifamily project mortgages.
- Congress enacts the United States Housing Act of 1937, which establishes the public housing program. The Act, administered by the United States Public Housing Authority, authorized loans to local public housing agencies for lower-rent public housing construction expenses.<sup>8</sup>
- Congress authorizes the Housing Act of 1949, which approves funds to localities to assist in slum clearance and urban redevelopment. This program, as earlier programs, emphasized new construction. In addition, it provided funding for activities not directly related to housing construction. Community open space, neighborhood facilities, and basic water and sewer facilities were all made eligible for federal assistance.<sup>9</sup> The Act also included the goal “a decent home and suitable living environment for all Americans.”



In Florida, one major housing public policy initiative is the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 (commonly known as the Growth Management Act). The Act requires each city and county to prepare and adopt a Comprehensive Plan that contains a Housing Element which consists of standards, plans, and principles 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 §380.0651(3)(j), F.S., 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;
- 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; and
- H. By July 1, 2008, adoption by each county in which the gap between the buying power of a family of four and the median county home sale price exceeds \$170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern, of a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. The Legislature has defined "workforce housing" to mean housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.<sup>10</sup>

Another major housing public policy initiative in Florida is the William E. Sadowski Affordable Housing Act of 1992 (Sadowski Act). The Sadowski Act is significant because it provides both the funding mechanism for a dedicated source of revenue for state and local housing programs and a flexible, but accountable framework for local programs that stimulates local economies. The Sadowski Act establishes a dedicated revenue source for affordable housing, with two phases for funding implementation:

- i. A ten-cent (per every \$100 of value) increase to the documentary stamp tax paid on the transfer of real estate beginning August 1992, and
- ii. A reallocation of an additional ten cents (per every \$100 of value) of existing documentary stamp tax revenues from general revenue, beginning July 1995.<sup>11</sup>

According to the Florida Housing Finance Corporation:

*The Sadowski Act provides funding for several state affordable housing programs including the Predevelopment Loan Program (PLP), the State Apartment Incentive Loan (SAIL) Program, and the Homeownership Assistance Program (HAP). The Sadowski Act also initiated the Low-Income Emergency Home Repair Program, the HOME Investment Partnerships Program, the HOPE Program, the Florida Affordable Housing Guarantee Program, the Affordable Housing Catalyst Program for Technical Assistance and Training, and the State Housing Initiatives Partnership Program (SHIP).<sup>12</sup>*

Generally, federal, state, and local housing public policy initiatives have focused on ensuring safe and sanitary housing conditions, regulating the location of housing, and providing public funding for affordable housing. By contrast, the private sector has been responsible for providing market-rate housing.<sup>13</sup> Regardless of whether the public or private sector provides housing, obtaining and retaining housing can be grouped into four categories. The following groupings are not mutually exclusive, and housing may be obtained and retained through a combination of these categories.

1. Indirectly employer-assisted housing: An employee uses wages or salary to purchase or rent housing.
2. Directly employer-assisted housing: An employer provides downpayment assistance, a rental subsidy, or leases housing to employees.
3. Publicly-assisted housing: Downpayment assistance, below market rate loans, or rental subsidy is provided through a governmental program.
4. Familial or relationship-assisted housing: Assisted housing is provided by a family member or friend and includes accessory dwelling units, heir property, housing purchased or rented using assets derived from a family member or friend.

Despite the efforts of the public and private sectors, obtaining and retaining affordable housing has been and remains a challenge for many Floridians. Affordable housing is defined by the Florida Legislature as monthly rents or monthly mortgage payments including taxes, insurance, and utilities that do not exceed 30% of that amount which represents the percentage of the median adjusted gross annual income for very-low- to moderate-income households.<sup>14</sup> However, demand for affordable housing continues to exceed available supply. According to the Florida Housing Finance Corporation, from 1980 to 2002, its programs constructed or provided funding for mortgage loans to approximately 43,300 units of ownership housing. Florida Housing Finance Corporation also financed approximately 140,000 affordable rental units. According to the University of Florida's Shimberg Center for Affordable Housing (Shimberg Center), the State of Florida will need to add 393,247 residential units for persons at or below 80% of the median household income between the years 2002-2025. If it is presumed the efforts to provide affordable housing will follow historic trends, the state will not be able to meet this challenge.

An inadequate supply of affordable housing is an issue with multiple implications. According to the National Conference of State Legislatures:

*Many states have started to view housing as an economic development issue as well as a social issue. If employees cannot afford to live in an area on the wages paid for a company's jobs and the company cannot economically afford paying the wages that would be required for the employee to live in the area, the economic impacts of high housing costs can extend far beyond what has traditionally been the case. Tax revenues, income, property and sales, can be impacted as people and businesses move out of an area or simple curtail spending. Many of the people who move out or even never move into an area due to housing cost burden may well be young, well-educated professionals—exactly the type of worker states and communities bemoan losing to other areas.<sup>15</sup>*

Evidence indicates that the formation of housing policy and programs follow identifiable crisis or periods of major change.<sup>16</sup> As noted previously, Florida's communities have not kept pace with the demand for affordable housing. One recognized factor contributing to this issue is housing prices rising at a greater rate than increases in household income. The average growth rate of housing prices has been 8.6% while the rate of increase in household income has been less than half, at 3.4%.<sup>17</sup> Since public policy initiatives have not kept pace with affordable housing demand, it is necessary to reevaluate the various components of Florida's housing policy in order to determine if there are alternative approaches that can be considered to enhance the state's affordable housing stock.



### III

#### METHODOLOGY

*"In every community there is work to be done. In every nation there are wounds to heal. In every heart there is the power to do it."*

Marianne Williamson  
Social Activist

This Report is intended to provide the Department an analysis of the most relevant issues that affect the provision of affordable housing. The Report contains an evaluation of these issues as well as alternative approaches, their respective pros and cons, and operational steps for consideration by the Department. The sections of this Report are:

- Comprehensive Planning and the Housing Element;
- Florida's Affordable Housing Needs Assessment;
- Efficacy of Housing Elements' Goals, Objectives, and Policies;
- Coordination of Federal, State, and Local Housing Programs to Implement the Housing Element;
- Linkage Programs and Inclusionary Zoning as Tools for Providing Affordable Housing;
- Additional Tools to Meet the Needs of Very-Low to Moderate-Income Households;
- Housing Requirements of the Development of Regional Impact Process;
- Accessory Dwelling Units as Tools for Providing Affordable Housing;
- Relevant Findings from the New England Affordable Housing Study;
- Potential Regulatory Barriers to Providing Affordable Housing;
- Model Process for Identifying Affordable Housing Needs and Developing and Implementing an Action Plan.



This Report addresses a wide range of affordable housing issues and therefore, a mix of data collection methods was employed. The methodologies discussed represent the most significant research components of the Report; further explanations of data collection and analysis techniques can be found within each section or in the appropriate addendum. The following discussion outlines general methodologies of the most significant research areas.

### **Comprehensive Planning Policy Considerations**

In order to review and assess the efficacy of Chapter 163, Part II, F.S., Rule 9J-5, F.A.C., and the implementation of the Legislature's initiative regarding accessory dwelling units for low- to moderate-income renters (§163.31771, F.S.), an internet-based survey was conducted of statewide stakeholders, representing the public and private sectors. The survey targeted:

- Regional Planning Councils;
- Housing/environmental/growth management advocacy organizations;
- Land use attorneys and other consultants;
- Builder/developers;
- County and municipal planning/growth management officials; and
- County and municipal housing officials.

Survey results are dispersed throughout the Report since they served as the basis for further research.

Criteria were developed to review literature on comprehensive planning processes and statewide growth management systems. The intent of this process was to determine whether Florida's mandated planning process provides a solid foundation for local governments to identify their housing needs, specifically regarding affordable housing, and if there are additional requirements employed by other states that could enhance Chapter 163, Part II, F.S. In addition, criteria were developed and used to conduct an objective review of the Housing Element adopted by local governments in Florida. The specific criteria employed are discussed in detail in the "Comprehensive Planning and the Housing Element" and the "Efficacy of Housing Elements' Goals, Objectives, and Policies" sections of this Report.

Additionally, a process to review a statistically-valid number of county and municipal Comprehensive Plans was developed to further determine the efficacy of state policy, and in particular, §163.3177(f), F.S., and Rule 9J-5.010, F.A.C. Using the aforementioned criteria, the Housing Elements of the Comprehensive Plans as well as the corresponding Evaluation and Appraisal Reports (EARs) were reviewed to gauge the level to which each Plan met the minimum requirements. More importantly, the review focused on the provisions within each Plan as it related to providing and retaining affordable housing units and addressing substandard units.

## Regulatory Considerations

To measure the strength of the link between state policy and local land use practice, the Department researched local regulations and their effect on providing affordable housing units. This research consisted of several approaches.

1. County and municipal land development codes in Florida were reviewed for applicable affordable housing provisions including, accessory structures, inclusionary zoning, and linkage programs. Research was done primarily through personal interviews and reviews of respective land development codes for approximately 200 Florida communities. These communities represent roughly 75% of the state's population.
2. The specific land use regulations of twelve local governments that represent urban, emerging urban and rural communities were reviewed. The intent was to identify regulations that may be obstructing the provision of affordable units, and, if applicable, begin to develop a regulatory model that can address some of the raised issues. The process for this review included personal interviews as well as land development code research. Eleven regulations were identified primarily from the responses to the survey.



## IV

### COMPREHENSIVE PLANNING AND THE HOUSING ELEMENT

The State of Florida enacted a statewide growth management system commonly known as the Growth Management Act of 1985. The expressed intent of the Act is:

*"Appropriate planning action cannot be prescribed from a position of value neutrality, for prescriptions are based on desired outcomes."*

Paul Davidoff  
Urban Planner

*...so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.<sup>18</sup>*

There are ten other states that have adopted growth management programs. They are the States of Hawaii (1961), Vermont (1970), Oregon (1973), New Jersey (1986), Maine (1988), Rhode Island (1988), Georgia (1989), Washington (1990), Maryland (1992), and Minnesota (1997).<sup>19</sup> According to John De Grove, "most of the growth management states...have in common a change in allocation of authority and responsibility vertically; and, at a minimum, new coordination requirements horizontally between and among state agencies, and between and among cities and counties where both are players in the growth management process."<sup>20</sup>

A common component of the referenced statewide, growth management programs is a requirement that local governments adopt a Comprehensive Plan. In general, the local Comprehensive Plan serves three purposes:

*To provide a process to make policy, that is, a process by which people of a community can take part, with elected officials and appointed boards, in generating and debating policy ideas. A second purpose is then to communicate that policy and intended program of action to property owners, developers, citizens, elected officials, appointed officials, and other affected parties. The plan should educate, inspire, and convince those parties. A third purpose is to help implement policy...by becoming guides to elected officials and appointed public officials as they deliberate development decisions.<sup>21</sup>*

While a Comprehensive Plan is a holistic document, major policy issue areas are often presented by elements, including but not limited to a Housing Element. A review of Florida's and the ten other states' growth management legislation and administrative rules governing the preparation and adoption of the Housing Element was conducted to determine if there are additional requirements being employed by other growth management states that are not mandated by Florida (See *Addendum 1-1* for a summary of this review). In addition, planning literature was reviewed to determine a professionally-accepted set of minimum standards for the preparation of a Housing Element. The following are the professionally- accepted criteria to be used in the preparation of the Housing Element.

1. The supply of existing housing;
2. The condition of existing housing;
3. The occupancy of existing housing;
4. The affordability of existing housing;
5. The location of potential sites for new housing;
6. Public and private programs available for the provision of affordable housing;
7. Constraints on housing development.<sup>22</sup>



Historically, the focus of the Housing Element was improving the physical condition of housing through the elimination of blight. More recently, the breadth of the Housing Element has been augmented to address affordability. Florida and nine other growth management states (Hawaii does not require the development of a formal Housing Element) have guidelines that direct local governments to assess affordable housing demand and the efforts that will be undertaken to meet affordable housing needs. It should be noted that affordability is rarely addressed in the context of evaluating local economic conditions, a technique identified in literature on professional planning practice as a key strategy that should be a component of planning programs.<sup>23</sup>

**Issue 1:** In Florida, the requirements of §163.3177(f), F.S., and Rule 9J-5.010, F.A.C., provide a strong foundation for communities to determine their housing needs (including affordable housing) and how they will address these needs. However, there are planning approaches employed by other states that may enhance the ability of Florida's communities to address the affordable housing needs of very-low- to moderate-income residents.

For instance, the State of Georgia's minimum requirements declare: "future trends, where called for, shall be forecast over the twenty-year planning horizon."<sup>24</sup> Also, the states of Maine and New Jersey allow local governments to take a regional approach to address affordable housing. Maine's requirements indicate "a municipality **may** cooperate with neighboring municipalities to develop a regional comprehensive plan in lieu of a municipal plan."<sup>25</sup> The State of New Jersey's Fair Housing Act says:

*The New Jersey Supreme Court, through its rulings in South Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983), has determined that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.<sup>26</sup>*

*The interest of all citizens, including low and moderate income families in need of affordable housing, would be best served by a comprehensive planning and implementation response to this constitutional obligation.<sup>27</sup>*

*There are a number of essential ingredients to a comprehensive planning and implementation response, including the establishment of reasonable fair share housing guidelines and standards, the initial determination of fair share by officials at the municipal level and the preparation of a municipal housing element, State review of the local fair share study and housing element, and continuous State funding for low and moderate income housing to replace the federal housing subsidy programs which have been almost completely eliminated.<sup>28</sup>*

Finally, the State of Rhode Island's planning requirements direct local governments to prepare, as part of their Housing Element, an affordable housing plan that includes "an implementation program of actions to be taken to effectuate the policies and goals of the affordable housing plan."<sup>29</sup>

**Alternative Approach 1.1:** Chapter 163, Part II, F.S., and Rule 9J-5, F.A.C., could be revised to increase Florida's planning horizon to 20 years instead of the present ten year period.

**Pro(s):**

- According to Purdue University's Land Use Team, the trend in comprehensive planning for long-range plans (20-30 years) is growing.<sup>30</sup>
- The issue of land use patterns related to the job-housing balance may be the reason to go out to the 20 years. If not, important opportunities could be missed.

**Con(s):**

- Relative to other things, changing the timeframe is not of particular importance. Rather, the employment piece is the most important component.

**Operational Steps:**

- Enact legislation.
- Rule promulgation.

**Alternative Approach 1.2:** Chapter 163, Part II, F.S., and Rule 9J-5, F.A.C., could be revised to require a regional, fair share approach to planning for the affordable housing needs of Floridians. It should be noted that 9J-5.010(3)(c)10, F.A.C., does authorize a local government to enter into an interlocal agreement.

**Pro(s):**

- A regional, fair share approach has the prospect of leveraging multi-jurisdictional resources to address affordable housing demand.
- The use of a regional, fair share approach may provide communities that are near build-out or with high land cost an additional option to address affordable housing demand.

**Con(s):**

- A regional, fair share approach may not be effective if the location of housing in relation to employment creates longer commute distances and times which results in costs to the affected resident.
- While a regional, fair share approach is a legitimate technique, there have been implementation issues limiting their effectiveness.

**Operational Steps:**

- Considerations about a regional, fair share approach could include the following that address implementation concerns which have arisen in other areas:
  - ✓ Examining need in the context of employment to optimize location of affordable housing;
  - ✓ Determining how the regional area will be delineated (i.e., boundaries of the Regional Planning Councils or economic areas delineated using a forecasting model). It should be noted that the Office of Tourism, Trade, and Economic Development as well as the eleven Regional Planning Councils license a common software;
  - ✓ Establishing measurable outcomes for the defined region and participating local governments; and
  - ✓ Ensuring implementation efforts are maximized, particularly in the areas of monitoring and evaluation, enforcement, and accountability.

In August 2005, the Southern Maine Regional Planning Commission prepared a fair share analysis and allocation of affordable housing needs for the municipalities in York County. This could be used as a template to guide the development of regional, fair share models in Florida. The steps in the process are:

✓ **Step 1: Calculate Net Change in Households Through 2015**

*Net household change is based on projected employment growth and its relationship to new households.*

- In 2000, there were 99,079 working residents and 60,295 at-place jobs in York County, a ratio of 1.643 employed residents per at-place job.
- The ratio of working residents in 2000 to the number of households (74,563) was 1.33.
- The Maine Department of Labor projects 2015 at-place employment in York County as 66,978.
- At-place employment (66,978) multiplied by employed residents per at-place job (1.643) = 110,061 working residents in 2015
- Working residents (110,061) divided by ratio of working residents to households (1.33) = 82,828 households in 2015.

**Projected net change in households: 8,265**

✓ **Step 2: Calculate Future Regional Need for Low- to Medium-Income (LMI) Sale and Rental Units**

*Future regional need for LMI units is based on applying 2000 shares of owners and renters by income classification to household growth through 2015.*

- 2000 Census: 72.6% of York County households owned their homes, 27.4% rented.
- Among households owning homes, 36.4% earned below 80% of the county median income.
- Among renting households, 69.6% earned below 80% of the county median income.
- Household breakdown:
  - Homeowners earning below 80% LMI: 26.4%
  - Renters earning below 80% LMI: 19.1%
  - Subtotal: below 80% LMI: 45.5%
  - Homeowners earning above 80% LMI: 46.2%
  - Renters earning above 80% LMI: 8.3%
  - Subtotal: above 80% LMI: 54.5%

Household Change from 2000-2015			
	Owners	Renters	Total
Below 80% LMI	2,181	1,584	3,765
Above 80% LMI	3,809	691	4,500
Total Households	5,990	2,275	8,265

✓ **Step 3: Allocate Future LMI Need to Each Municipality**

- Allocation of future units based on five municipal share factors:
  1. Share of total at-place jobs in the region – priority is to concentrate housing around employment centers to reduce sprawl.
  2. Share of region's total property valuation – property valuation reflects affluence and presence of commercial/industrial tax base. Municipalities with higher valuations have a greater ability to provide for LMI families' needs.
  3. Share of region's workforce – Working population is more important than total population when measuring need for workforce housing.
  4. Share of region's existing total occupied units – Occupied units = households. Many communities have large supplies of seasonal units that are not occupied year-round.
  5. Share of region's aggregate household income – Household income provides another measure of affluence and ability to meet the needs of low-income families.<sup>31</sup>

**Alternative Approach 1.3:** Chapter 163, Part II, F.S., and Rule 9J-5, F.A.C., could be modified to require local governments to develop an implementation program of actions to be taken to effectuate the policies and goals of the affordable components of the Housing Element.

**Pro(s):**

- This may highlight affordable housing needs.

**Con(s):**

- An implementation plan would be just another planning requirement among many (i.e., Consolidated Plan, Local Housing Assistance Plan, etc.)

**Operational Steps:**

- The implementation program could include timelines, measurable outcomes, and monitoring requirements. The Local Housing Assistance Plan of the State Housing Initiative Partnership could serve as a draft model for contents of an implementation program. A copy of the guidelines for preparing a Local Housing Assistance Plan is included as *Addendum 4-2*.
- The Housing Element could be linked to the Capital Improvements Element. This may require housing to be considered as infrastructure.
- The action/implementation plan could be part of the Comprehensive Plan, versus a stand-alone document.

**Issue 2:** There is an inextricable link between employment and housing, but an assessment of historical, current, and future employment trends is not required by §163.3177(f), F.S., and Rule 9J-5.010, F.A.C.

**Alternative Approach 2.1:** Section 163.3177(f), F.S., and Rule 9J-5.010, F.A.C., could be amended to include a requirement that employment trends be analyzed as part of the Housing Element preparation and adoption process.

**Pro(s):**

- Incorporating analysis of employment trends and future needs may enhance a community's ability to address their affordable housing needs as well as the allocation and designation of non-residential land uses on the Future Land Use Map.
- The analysis of employment trends could allow communities to link their economic development strategies (i.e., increasing the number of jobs and wages) to affordable housing initiatives, which can include improving wages in order to reduce gaps in purchasing power relative to the cost of housing.

**Con(s):**

- Data that could be used to implement this process has not been assembled.

**Operational Steps:**

- Define and delineate the factors that could be used as part of the preparation of an employment trend analysis. Factors to be considered could be a determination of housing need in relation to wages as well as a review of land use patterns and transportation.
- The implementation of this requirement could be linked to §163.3177(f)(1)(a), F.S., which requires the provision of housing for all current and future residents of a jurisdiction.
- The staff of the Shimberg Center are developing a draft process for consideration by the Department.
- The analysis of employment trends could be accomplished using an economic forecasting model. The Office of Tourism, Trade, and Economic Development as well as the eleven Regional Planning Councils license common software.
- The process could be used to link state funding to affordable housing developments that are approximate to employment centers, implement urban infill strategies, and support Urban Service Areas.
- Linkage programs could be used to tie this concept to transportation.

*"Don't leave  
inferences to be  
drawn when  
evidence can be  
presented."*

**Richard Wright**  
**Author**

Section 163.3177(f), F.S., and Rule 9J-5.010, F.A.C., provide the minimum criteria for local governments to prepare a Housing Element, including assessing and planning for their affordable housing needs. The goals, objectives, and policies of the Housing Element must be based on the data and analysis prepared on housing needs, including an affordable housing needs assessment.<sup>32</sup>

In 1993, the Florida Legislature revised Chapter 163, Part II, F.S., to establish a uniform method of data collection and guidelines for the preliminary analysis for the Housing Element. In addition, the Department was directed to conduct an affordable housing needs assessment for all local jurisdictions using the following four objectives:

1. Assist local governments in the preparation of updates to the Housing Elements of Comprehensive Plans;
2. Focus more attention on affordable housing needs;
3. Provide local governments with a common starting point for subsequent evaluation of the Housing Element; and
4. Provide state agencies with a consistent database with which to analyze housing needs at the state level.



The Affordable Housing Needs Assessment (AHNA) is intended to fulfill this requirement. (See *Addendum 2-1* for a complete listing of the required statistical indicators). According to the Shimberg Center:

*The needs assessment is composed primarily of data on housing supply and demand in Florida. The supply data include Census statistics on Florida's housing stock that are updated with current information from building permit activity and property appraiser data. Demand or demographic data include estimates and projections of households by age, tenure, size, and income based on 2000 Census data. The Affordable Housing Needs Assessment data also include population projections and inventories of public housing and rental housing receiving state or federal subsidies.<sup>33</sup>*

As noted previously, an internet-based survey of Regional Planning Councils, local government planning and housing officials, the private sector, and housing advocates was conducted. One of the survey questions was “does your local government use the data contained in the University of Florida’s Shimberg Center’s Affordable Housing Needs Assessment?” *Table 1* summarizes the responses about how local governments utilize the Affordable Housing Needs Assessment. It should be noted that, where applicable, respondents were allowed to list their own uses of the Affordable Housing Needs Assessment and offer subjective comments about how to use or improve the data. Subjective comments ranged from concerns with the accuracy of the population projections to outdated data and methodologies that did not reflect local circumstances.

**TABLE 1- Survey Responses Regarding AHNA Data Uses**

RESPONSE	RATE OF RESPONSE
“Update the comprehensive plan”	42%
“Identify housing trends”	33%
“Determine local affordable housing supply”	24%
“Monitor progress toward fulfilling affordable housing demand”	17%
“Do not know”	12%

**Issue 3:** The Affordable Housing Needs Assessment is intended to be a uniform method of data collection and to inform preliminary analysis for the Housing Element. Its use is prescribed by 9J-5.010(2)(b), F.A.C. However, the methodology used to generate the population projections contained in the Affordable Housing Needs Assessment is not the same methodology employed to develop the population projections promulgated by the University of Florida's Bureau of Business and Economic Research (BEBR). The use of Bureau of Business and Economic Research population data is prescribed by 9J-5.005, F.A.C. Both 9J-5.005, F.A.C., and 9J-5.010, F.A.C., provide local governments the latitude to develop and use their own methodologies once reviewed and approved by the Department.

**Alternative Approach 3.1:** A uniform methodology could be developed for population projections to ensure internal consistency between and among all Elements of the Comprehensive Plan and avoid duplicative processes.

**Pro(s):**

- A uniform planning methodology is used.

**Con(s):**

- The Bureau of Business and Economic Research does not provide sub-county level projections. Additionally, the Affordable Housing Needs Assessment data is controlled for county data so a conflict may not occur.

**Operational Steps:**

- A common methodology could be created using a modified version of the Bureau of Economic and Business Research's small area projections, which includes cities.
- The Affordable Housing Needs Assessment methodology could be modified to reflect potential changes in the required contents of the Housing Element.

**Alternative Approach 3.2:** Rule 9J-5, F.A.C., could be revised to remove the conflicting language regarding population forecasting methodologies.

**Pro(s):**

- This would remove the prescription that directs local governments to use two different population forecasting methodologies.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9B-43, F.A.C.
- Revise Rule 9J-5, F.A.C., as needed.

**Issue 4:** Feedback obtained from local governments via an internet-based survey indicates there are concerns about how current the Affordable Housing Needs Assessment data is, in addition to how well it depicts current trends and the needs of communities. Information obtained from staff at the Shimberg Center indicates the Affordable Housing Needs Assessment data can present logistics problems and does not capture certain factors adequately, particularly with smaller communities, small communities with populations that are rapidly increasing or decreasing, and communities that are aggressively annexing. Additionally, parts of the Affordable Housing Needs Assessment data have not been updated since the 2000 Census, while others are updated every three to four years.

The Shimberg Center has a contract with the Bureau of Economic and Business Research to identify the jurisdictions where these logistical problems exist.

**Alternative Approach 4.1:** Technical assistance, training, and education curricula could be developed to ensure that local government staff are aware of all aspects of the Affordable Housing Needs Assessment methodology and data.

**Pro(s):**

- Technical assistance, training, and education could provide practitioners an enhanced understanding of the Affordable Housing Needs Assessment methodology and data, its application(s) for the preparation of the Housing Element, and how it may be used to implement other affordable housing activities.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- At a minimum, the curricula could address the methodology used to develop the Affordable Housing Needs Assessment data, the flexibility of the data (i.e., how and when the data may be modified at the request of a local government), and how local governments may be able to augment underlying assumptions used to develop the data for their community.
- The Department could coordinate with the Florida Housing Finance Corporation and the Shimberg Center to remain abreast of issues arising from the implementation of the Affordable Housing Needs Assessment data. It should be noted that from 1997-2000 there were ongoing conversations about how to use the Affordable Housing Needs Assessment data; however, those forums are not currently in place.

**Alternative Approach 4.2:** The Affordable Housing Needs Assessment methodology and data requirements could be amended to reflect current or revised requirements for preparing a Housing Element.

**Pro(s):**

- The Florida Housing Needs Assessment methodology and data not only provides local governments the means to develop their Housing Element, but also allows the state to have a uniform system for identifying the type and amount of affordable housing needed.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The Department could coordinate with the Florida Housing Finance Corporation, Shimberg Center, and local government representatives to identify any changes that may be needed to the current Affordable Housing Needs Assessment methodology and data, as a tool to meet the requirement of Chapter 163, Part II, F.S., and Rule 9J-5, F.A.C.



*"We should concentrate our work not only to a separated housing problem but housing involved in our daily work and all the other functions of the city."*

Alvar Aalto

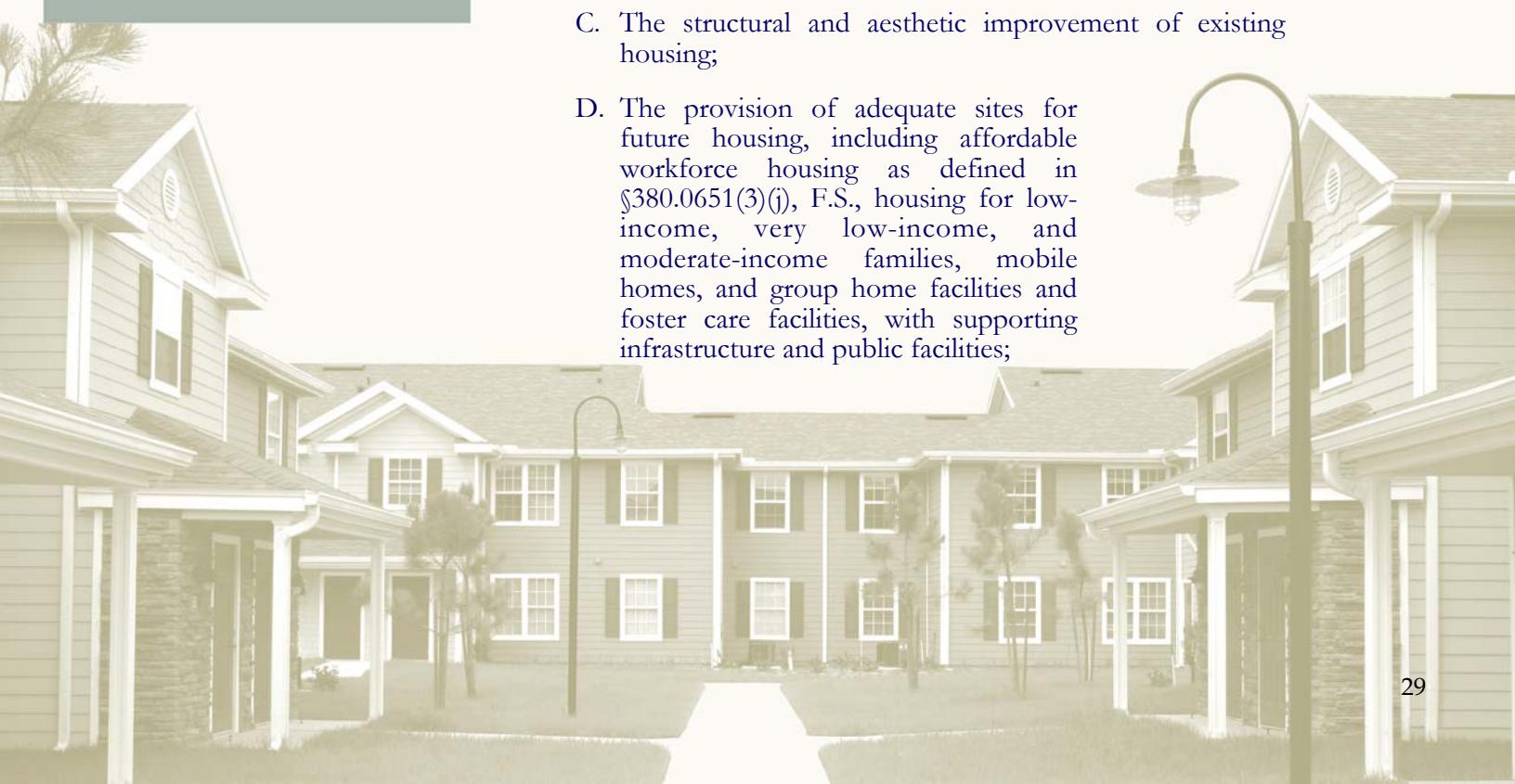
"Father of Modernism"

In 1985, the Florida Legislature adopted the Growth Management Act, which requires each county and municipality to prepare and adopt a Comprehensive Plan, including procedures to implement the Plan. These procedures are commonly called land development regulations, land development codes, or zoning regulations. In Florida, all proposed and approved development in a municipality or the unincorporated portion of a county must be consistent with the Comprehensive Plan for that community.

Comprehensive Plans in Florida are required to include elements that address future land use; housing; transportation; recreation and open space; capital improvements; intergovernmental coordination; potable water, storm water, sanitary sewer, solid waste, and natural groundwater aquifer recharge; conservation of natural resource; and by December 1, 2008, public school facilities. In addition, coastal municipalities and counties must prepare a coastal management element. A community may include optional elements, such as economic development, historic preservation, or community design.<sup>34</sup>

The Housing Element must, at a minimum, consist of standards, plans, and principles 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 §380.0651(3)(j), F.S., 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;



- 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; and
- H. By July 1, 2008, adoption by each county in which the gap between the buying power of a family of four and the median county home sale price exceeds \$170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern, of a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. The Legislature has defined "workforce housing" to mean housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.<sup>35</sup>

The Housing Element of over 170 local governments was reviewed to determine how well they implement §163.3177(f), F.S., and Rule 9J-5.010, F.A.C. Controls were applied to ensure that the communities sampled were randomly selected and representative of the various geographic areas of the state as well as a range of population thresholds. The population thresholds were: less than 10,000; 10,001 to 50,000; 50,001 to 100,000; and greater than 100,000. (See *Addendum 3-1* for a complete explanation of this review). The following criteria were used to assess each housing element:

- Does the Element identify the number of existing residential units by type, tenure, age, income, cost-burdened status, and the vacancy rate?
- Does the Element identify and analyze current and future population?
- Does the Element identify and analyze current and future employment trends?
- Does the Element identify the number of existing public housing units, group homes, and special needs housing units?
- Does the Element identify the number of mobile homes within the community?
- Does the Element identify the number of existing, substandard units?
- Does the Element identify the number of future residential units that will be needed during the planning period by amount of acres, type, tenure, and income?
- Does the Element include a measurable standard of efforts to eliminate substandard housing?

- Does the Element include a measurable standard of efforts to provide affordable housing units or include a project list?
- Does the Future Land Use Map have affordable housing categories that are handled differently than other residential land uses?
- Does the Element have a monitoring process other than the Evaluation and Appraisal Report?
- Does the Element identify current and future efforts to preserve public housing?
- Does the Element have specific ties to public schools, mass transit, or recreation/open space?

The research identified eight areas where the Housing Elements could be enhanced:

1. The Future Land Use Maps do not explicitly identify adequate sites for affordable housing. In addition, the Elements do not contain an assessment of whether the allocated residential land use categories will be adequate for the development of affordable housing.
2. The Elements identify the number of substandard units that will be improved during the planning period, but do not contain tangible implementation activities or measurable outcomes to achieve the stated objective.
3. The Elements identify the number of new housing units that will be needed during the planning period. However, the Element should specify the number of units needed by income, including the number of affordable housing units that will be needed.
4. The Elements do not identify the role(s) the public and private sector will play to provide affordable housing, nor do they contain tangible implementation activities intended to produce affordable housing by each sector.
5. The Elements do not address requirements such as the integration of housing and public transit, schools, or recreation/open space.
6. Current and future population trends are identified in nearly every plan reviewed; however, very few plans have identified current and future employment trends.
7. Current and future efforts to preserve existing affordable housing units are not addressed in the Goals, Objectives and Policies or the Data and Analysis sections.
8. A majority of the Elements rely solely on the Evaluation and Appraisal Report process as the only monitoring process.



**Issue 5:** All local governments in Florida, with the exception of newly incorporated municipalities, have adopted a Comprehensive Plan that has been found 'In-Compliance'. However, based on the findings from the review of the Housing Elements of the sampled local governments, changes could be made that would enhance a community's ability to frame the scope of their affordable housing needs and implement activities to address said needs.

**Alternative Approach 5.1:** Technical assistance, training, and education programs could be developed to aid local governments in enhancing their Housing Elements and implementing activities to increase the production of affordable housing.

**Pro(s):**

- Technical assistance, training, and education could provide practitioners an enhanced understanding of the techniques and incentives that would address their community-specific affordable housing needs and desired outcomes.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The technical assistance, training, and education programs could include workshops, case-by-case response to specific requests, and online resources.
- Since the Department has limited staff resources dedicated to affordable housing issues, it could consider soliciting Requests for Qualifications using a process similar to that used to provide training and outreach related to incorporating Local Mitigation Strategies into the Comprehensive Plan.
- A Central Repository of Information could be developed to include 'Best Practices' and the ability to partner communities that have similar issues/needs.
- The technical assistance, training, and education programs could be developed to aid communities that have limited staff.
- The Department could use its training program for the preparation of the revised Capital Improvements Element as a template for technical assistance, training, and education programs regarding preparation of a Housing Element.
- Florida Housing Finance Corporation and the Florida Housing Coalition jointly run the Catalyst Program which primarily consists of technical assistance to local governments and community-based organizations relating to meeting the identified affordable housing needs. The Catalyst Program could be enhanced to provide expertise on land use issues.
- The Local Housing Advisory Committees (and their staff from the local Housing and Planning Departments) could be the primary recipients of technical assistance, training, and education programs. The composition of the Committees may need to be examined to ensure the representatives include persons involved in the land development process.

- A curricula could be developed to address the following issues:
  - ✓ Identifying the number of substandard units within the jurisdiction. The use of Census data alone indicating the number of units that lack complete plumbing and/or is overcrowded may not be an adequate technique since it fails to estimate units that have serious structural deficiencies or inadequate heating and cooling systems. Other methodologies, such as windshield surveys, can be costly to local governments. The Shimberg Center is examining using property application data as an alternative. The technical assistance, training, and education curricula could incorporate information on current and emerging data available to identify the number of substandard units in a jurisdiction, funding programs available, and 'Best Practices' used for the rehabilitation of substandard units.
  - ✓ Ensuring "adequate sites for affordable housing" are designated on the Future Land Use Map. The technical assistance, training, and education programs could define "adequate sites for affordable housing". It should also address the implications of designating specific land use categories as being available solely for affordable housing, a step that would have unintended consequences. These consequences include artificially inflating the cost of land designated for affordable housing, creating enclaves of affordable housing (if the land use designation does not allow for mixed-income developments), and creating compatibility concerns from adjacent property owners. In addition, the technical assistance, training, and education programs could address assessing the role multifamily housing may play in determining whether there are adequate sites for affordable housing; whether a community's densities and minimum lot requirements affect the provision of affordable housing; and whether potential sites for affordable housing are approximate to employment centers, transit, and supporting services. An additional component of the technical assistance, training, and education programs could consider the use of incentives for the creation of affordable housing in those areas identified on the Future Land Use Map as "adequate."
  - ✓ Ensuring the affordable housing provisions of Rule 9J-5.010, F.A.C., are addressed. The technical assistance, training, and education programs could provide a framework to prepare an adequate Housing Element. They could also encompass how to use the Shimberg Center's Affordable Housing Needs Assessment to estimate the number of affordable units that will be needed during the planning horizon by income categories as well as type and tenure. In addition, information on 'Best Practices' regarding the creation and preservation of affordable housing units could be made available. It should be noted that the Florida Housing Finance Corporation and the Shimberg Center have data regarding the number and location of existing, publicly-owned, rental units.
  - ✓ Developing a public relations plan regarding affordable housing. The technical assistance, training, and education programs could address how community outreach efforts may assist the formation of public-private partnerships as well as increasing community support for affordable housing.

- ✓ Preserving the stock of affordable housing. The technical assistance, training, and education programs could provide additional direction about preservation techniques, including defining “preservation”. For instance, the technical assistance, training, and education programs could address identifying properties, preservation strategies that could be utilized, and how approaches for publicly-owned units differ from homeowner units acquired using public funds. The technical assistance, training, and education programs could address community preservation and include information on how to define “stabilization” of neighborhoods. Finally, the technical assistance, training, and education programs could also include information on ‘Best Practices’, such as the City of Jacksonville’s changes to its Land Development Code that allow renovations to specific sections of a building to be only subject to Florida Building Code as well as how communities have incorporated reviews of demolition reports to determine if units can be preserved.
- ✓ Developing a monitoring program for affordable housing. Technical assistance, training, and education programs could explore using the Affordable Housing Needs Assessment data as the initial monitoring tool and whether seven years (the Evaluation and Appraisal Report schedule) is the appropriate time period for monitoring affordable housing implementation efforts. For instance, the City of Orlando conducts a housing conditions survey every five years. Another approach may be using an annual report, which is not a full housing analysis, but an update of implementation efforts. An alternative time period for consideration could be three years.
- ✓ Determining the cost of permitting (i.e., application fees as well as development costs, concurrency, etc.). This will allow local governments to be in a better position to determine how, if needed, to implement programs such as expedited permitting or land development code reform.
- ✓ Providing technical assistance to the development community regarding affordable housing funding and techniques.



**Alternative Consideration 5.2:** A process could be established for review of local government Housing Elements for full compliance with Rule 9J-5.010, F.A.C. This supplemental review could identify, where applicable, community-specific deficiencies with Rule 9J-5.010, F.A.C.

**Pro(s):**

- A Housing Element that meets the requirements of Rule 9J-5.010, F.A.C., may provide an enhanced understanding of affordable housing needs and, concomitantly, the most appropriate strategies to address those needs.

**Con(s):**

- The Housing Elements have been found 'In-Compliance'. Without a change to statute or rule, the Department may not have the authorization to require the Elements to be revised.
- There may not be support for enhanced planning and zoning enforcement. Other options include: (1) outreach to increase the use State Housing Initiative Partnership funds as the vehicle to help implement the Housing Element and (2) linkage programs and inclusionary zoning.

**Operational Steps:**

- The Evaluation and Appraisal Report schedule could be used as the mechanism for implementing future review of the Housing Elements.
- The 118 Local Affordable Housing Advisory Committees could be used to review and recommend changes to the Housing Element. **It should be noted that Florida Housing Finance Corporation is in the process of rule making regarding Local Affordable Housing Advisory Committees, but the Corporation does not have authority in the area of land use.**



## VII

### COORDINATION OF FEDERAL, STATE, AND LOCAL HOUSING PROGRAMS TO IMPLEMENT THE HOUSING ELEMENT

*"Visions  
describe what  
best should be,  
could be - if and  
when mankind  
has the will to  
make them  
real."*

James Rouse  
Community  
Developer

While the Housing Element serves as a tool for local governments to identify their specific needs and desired outcomes, implementation activities to address affordable housing for extremely-low,<sup>36</sup> very-low-,<sup>37</sup> low-,<sup>38</sup> and moderate-income<sup>39</sup> persons are usually accomplished using funding from federal, state, and local housing programs.

The following programs are provided by the U.S. Department of Housing and Urban Development (HUD):

- Community Development Block Grants (CDBG) for Entitlement Communities
- Community Development Block Grants (Non-Entitlement) for States and Small Cities (administered by the Department)
- HOME Investment Partnerships (administered by the Florida Housing Finance Corporation)
- Supportive Housing Program
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program
- Supportive Housing for the Elderly (Section 202)
- Multifamily Rental Housing for Moderate-Income Families (Section 221(d)(3) and (4))
- Revitalization of Severely Distressed Public Housing (HOPE VI)

The U.S. Department of Agriculture, Rural and Community Development (RCD) provides the following programs:

- Single Family Direct Homeownership Loans (Section 502)
- Single Family Guaranteed Homeownership Loans (Section 502)
- Rental Assistance Subsidy (Section 521)
- Single Family "Self-Help" Technical Assistance Grants (Section 523)
- Rental Housing Direct Loans (Section 515)
- Farm Labor Housing Loans and Grants (Sections 514 and 516)
- Housing Preservation Grants (Section 533)
- Housing Site Loans (Sections 523 and 524)

The Florida Housing Finance Corporation provides the following programs:

- State Apartment Incentive Loan Program (SAIL)
- Housing Credits Program
- Florida Affordable Housing Guarantee Program
- Multifamily Mortgage Revenue Bond Program
- First Time Homebuyer Program
- Homeownership Pool Program
- Community Workforce Housing Innovation Pilot (CWHIP) Program

Local governments may provide housing bonds or administer a Housing Trust Fund.

This Report evaluated funding programs to assess what requirements they contain regarding consistency with and furtherance of the local Comprehensive Plan. Guidelines and, where applicable, administrative procedures were examined as part of the process.

Florida Housing Finance Corporation provides the majority of state-based funding for affordable housing. Florida Housing Finance Corporation uses a Universal Application for the Multifamily Mortgage Revenue Bonds (MMRB) Program, State Apartment Incentive Loan (SAIL) Program, HOME Investment Partnerships (HOME) Rental Program, and the Housing Credit (HC) Program. (See *Addendum 4-1* for an example of the Florida Housing Finance Corporation Universal Cycle Application).

All development in Florida must be consistent with the local Comprehensive Plan; therefore, developments to be constructed using Florida Housing Finance Corporation funding are assumed to be consistent with issues such as the Future Land Use Map, land development regulations, and concurrency requirements. The Universal Application and Rules 67-21, F.A.C., and 67-48, F.A.C., do not contain guidelines that would ensure that the affordable housing needs and desired outcomes of the Housing Element are being addressed by developments seeking Florida Housing Finance Corporation funding.

As noted previously, Florida Housing Finance Corporation also administers the State Housing Initiative Partnership (SHIP) and Community Workforce Housing Innovation Pilot (CWHIP) Programs. SHIP requires communities to prepare and adopt a Local Housing Assistance Plan which must be based on the local Comprehensive Plan's Housing Element (See *Addendum 4-2* for the official Local Housing Plan template). A cornerstone of the CWHIP Program is developing and implementing innovative land use techniques to facilitate the provision of affordable housing.

The Department administers the Small Cities Community Development Block Grant (CDBG) Program. Applicants are required by Rule 9B-43.004, F.A.C., to:

*Attach relevant portions/excerpts to document that the activities proposed in the application are not inconsistent with the adopted plan. Include the relevant data and analysis portions supporting the plan. If the adopted plan is silent on the activities requested, the local government must provide a statement to this effect on local government letterhead.*

(See *Addendum 4-3* for a complete listing of the 9B-43.004, F.A.C., requirements.)

Although this particular requirement will flag proposed housing activity that is inconsistent with the Comprehensive Plan, it also provides for housing activity not contemplated within the Plan by a statement on official stationary.

The programs of the U.S. Departments of Housing and Urban Development and Agriculture are administered at the federal level. While compliance with local regulations (which could include Comprehensive Plans and land development regulations) is mandated, whether an activity for which funding is sought furthers the provisions of the Housing Element is not a specific consideration.



**Issue 6:** Comprehensive Plans and their component elements have three, primary purposes: to make policy, to communicate policy, and to implement policy.<sup>40</sup> As noted previously, a review of a random sample of local government Comprehensive Plans revealed the Housing Elements do not identify the number of affordable housing units that will be needed in the planning period; adequate sites for affordable housing that will be available during the planning period; the role(s) the public and private sectors will play to provide affordable housing; techniques to integrating housing and public transit, schools, or open space; or tangible implementation activities that will be undertaken to reduce the number of substandard units in the community, maintain the stock of existing publicly-financed affordable housing units, and provide additional affordable housing units.

Based upon the review of 176 Housing Elements, it can be concluded that the elements do not provide a foundation that could guide funding proposals intended to address a community's affordable housing needs.

**Alternative Approach 6.1:** The Small Cities Community Development Block Grant Program application requirements could be revised so that funding serves as an incentive for communities and eligible activities are required to be identified in the Comprehensive Plan, and therefore, are given priority consideration.

**Pro(s):**

- As demonstrated by the enactment of Senate Bill 360 by the Florida Legislature in 2005, linking funding (through the Capital Improvements Element) to needs identified within the local Comprehensive Plan is vital to successful achievement of the Plan's outcomes. While housing is not a required component of the Capital Improvements Element, the underlying principle remains valid.

**Con(s):**

- Although Comprehensive Plans are intended to be dynamic, not all future conditions can be forecast. Therefore, any change that would increase coordination and consistency between the Housing Element and funding programs should allow flexibility to amend the Plan as needed, while limiting piecemeal changes that could undermine achieving holistic outcomes.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9B-43, F.A.C.
- Revise Rule 9B-43, F.A.C., as necessary.



**Alternative Approach 6.2:** The requirements of Florida Housing Finance Corporation's Universal Application could be revised to include a requirement that the requested funding activity is consistent with and furthers the local Comprehensive Plan's Housing Element.

**Pro(s):**

- As demonstrated by the enactment of Senate Bill 360 by the Florida Legislature in 2005, linking funding (through the Capital Improvements Element) to needs identified within the local Comprehensive Plan is vital to successful achievement of the Plan's outcomes. While housing is not a required component of the Capital Improvements Element, the underlying principle remains valid.

**Con(s):**

- Although Comprehensive Plans are intended to be dynamic, not all future conditions can be forecast. Therefore, any change that would increase coordination and consistency between the Housing Element and funding programs should allow flexibility to amend the Plan as needed, while limiting piecemeal changes that could undermine achieving holistic outcomes.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rules 67-21 and 67-48, F.A.C.
- Revise Rules 67-21 and 67-48, F.A.C., as necessary.

**Alternative Approach 6.3:** The State Clearinghouse Process, which provides for state and regional review and comment on applications for federal funding, could be revised to include a review of any requests for housing assistance to ensure consistency with and furtherance of the applicable local Comprehensive Plan, applicable Strategic Regional Policy Plan (§186.508, F.S.), and the State Comprehensive Plan (Chapter 187, F.S.).

**Pro(s):**

- This change would enhance the ability of the State of Florida to be involved in ensuring that federal funding for affordable housing is being used in accord with state affordable housing policy.

**Con(s):**

- If adequate state and regional resources are not provided to ensure applications are coordinated and reviewed in a timely manner, applications for funding may not be considered by federal agencies.

**Operational Steps:**

- The State of Florida's Executive Order 95-359 could be revised to include federal applications for housing assistance to undergo state and regional review through the Clearinghouse Process. The following is an overview of the Clearinghouse Process from the Department of Environmental Protection, which manages the Process:

*One of the Clearinghouse's primary functions is to serve as the state's single review point for federal assistance applications. This means that by submitting an application to the Clearinghouse, the applicant receives a one-stop review by all appropriate state and regional agencies. At the end of the Clearinghouse review, the applicant will be issued a clearance letter, which informs the applicant of potential concerns or inconsistencies regarding the proposed activity. The clearance letter will also include information on obtaining necessary state permits and will inform the applicant if there is a need to submit additional information for review. Thus, the applicant is able to discover through the Clearinghouse what would otherwise require contact with a multitude of agencies.*

*Projects requiring review under Governor's Executive Order 95-359 must also be submitted to the Clearinghouse – there are no provisions for exemption under the Order. Projects requiring review under this Order include:*

- *Applications for federal assistance that originate from a state agency (including state universities and community colleges).*
- *Projects to be funded by federal assistance or that involve direct federal activities that may affect Florida's environment, such as construction, transportation, and water quality-related projects. Such projects must be reviewed for consistency with the FCMP.*
- *Projects affecting Florida that are regulated by the following federal and state laws:*
  - ✓ *Section 216.212, Florida Statutes (restrictions on expenditure of federal funds)*
  - ✓ *Florida Coastal Management Program (FCMP)*
  - ✓ *Coastal Zone Management Act (CZMA)*
  - ✓ *National Historic Preservation Act (NHPA)*
  - ✓ *National Environmental Policy Act (NEPA)*
  - ✓ *Outer Continental Shelf (OCS) Lands Act*

- *Revisions or updates to documents for projects previously determined to have a significant effect on Florida's environment. The type of documents subject to review include:*
  - ✓ *Environmental Assessments (EA)*
  - ✓ *Environmental Impact Statements (EIS)*
  - ✓ *Revisions to projects which have previously received a FCMP consistency determination in a state clearance letter*
- *In limited circumstances, projects that will occur outside of the State of Florida, but which may affect Florida's environment.*
- *Applications for a federal license or permit without an analogous state permit (e.g., U.S. Coast Guard marine event permits, U.S. Army Corps of Engineers dredge and fill permits located outside of state waters) must also be submitted to the Clearinghouse and are subject to federal consistency review.<sup>41</sup>*

**Issue 7:** The lack of programmatic requirements that directly link funding proposals to the needs identified in the Housing Element is emblematic of a larger problem in Florida's approach to affordable housing, (i.e., a lack of coordination of desired outcomes and implementation activities among state organizations). The primary organizations involved in affordable housing in Florida are the Department of Community Affairs, Florida Housing Finance Corporation, and the Affordable Housing Study Commission. The Departments of Children and Family Services, Elder Affairs, Financial Services, and the Division of Emergency Management have programs that are intended to assist in the retention and rehabilitation of housing. In addition, there are 113 Public Housing Authorities in Florida that provide housing units for over 300,000 residents (approximately 115,000 households) with a waiting list of over 55,000 households. There are approximately 73,000 households receiving housing vouchers, with another 79,000 awaiting vouchers.<sup>42</sup> According to the Shimberg Center, Public Housing Authorities "primarily serve households at the extremely low income level, both through operation of public housing units and through administration of the Housing Choice Voucher program. On average, households served by these programs have incomes below the federal poverty level." In addition, Public Housing Authorities receive program funding and guidance from the U.S. Department of Housing and Urban Development and are not often included in coordination of state affordable housing policy implementation.



While the Secretary of the Department is an Ex-Officio, voting member of Florida Housing Finance Corporation's Board of Directors, there are no formal and ongoing mechanisms to coordinate State affordable housing policy and programs.

The National Governor's Association has identified addressing affordable housing in a coordinated manner as an important tool. Its Report, "Integrating Affordable Housing with State Development Policy," states:

*States have done much more than improve traditional housing programs. Governors have linked housing to other key programs, including support programs for seniors and families, infrastructure and economic development programs, and community revitalization programs. They also have undertaken regulatory reforms designed to make it easier to develop quality housing that is available for the full range of economic classes. These innovative state strategies can be grouped into six categories:*

- *Coordinating programs and resources*
- *Linking housing and development policies*
- *Promoting redevelopment of older neighborhoods*
- *Reducing regulatory costs of housing development*
- *Implementing zoning reform to promote affordable housing*
- *Building community and family stability through housing initiatives* <sup>43</sup>

One of the primary tools governors have used in the efforts to increase the provision of affordable housing is interagency coordination. The following is a list of strategies that have been used by other states.

*In several states, the governor has raised housing as a priority by assigning the housing agency a leadership role in multi-agency initiatives. This often includes appointing key housing officials to high-profile positions or reorganizing housing responsibilities in ways that give the housing agency more prominence. For example, in 2003, Pennsylvania Gov. Edward Rendell created an Office of Housing and Community Revitalization to work across agency lines, in collaboration with the housing finance agency, to integrate housing and urban revitalization into policies and programs throughout state government. A major goal is to provide a combined source of funding to support revitalization.*

*Under the leadership of Gov. John Baldacci, Maine's housing agency is leading a multi-agency initiative to address homelessness, promote affordable housing in high-cost areas, address rural and elderly housing needs, and improve the capacity of housing-related nonprofits. Arizona Gov. Janet Napolitano combined several core housing agency functions in the Arizona Department of Housing, a single agency with broad authority and a diverse governance board.*

*Many governors have brought together groups of stakeholders to identify the housing and related issues unique to their states. For example, Illinois Gov. Rod Blagojevich established, by executive order, a broadly representative Affordable Housing Task Force to develop a comprehensive housing policy for the state. Co chaired by the head of the Illinois Housing Development Authority and an executive from the banking industry, the task force includes housing experts, developers, advocates, and state agency heads (including the secretaries of transportation and economic development) as well as a U.S. Congressional Representative.*

*Other states have evaluated the housing needs of various populations, leading to concrete action. For example, research commissioned by the Iowa Finance Authority and prepared by the Urban and Regional Planning Program at the University of Iowa led to the creation of a comprehensive housing strategy to address special needs; disparities between urban, rural and suburban investments; immigrants' needs; and affordability barriers at the local level.*

*Arizona's Housing Commission and Department of Housing published the State of Housing in Arizona in 2000 and followed with an Arizona Affordable Housing Profile in 2002. These publications formed the basis for statewide efforts by the state housing agencies, nonprofits, local governments, and other housing industry leaders. The nonprofit Housing Alliance of Pennsylvania issued a 2003 housing assessment urging greater focus on housing needs. Acknowledging these findings, Gov. Rendell issued an executive order creating a new position for housing policy within the administration.*

*States also are setting goals and developing action plans. 'HousingMinnesota', a multi-year advocacy campaign, is bringing together diverse constituencies to ensure that every resident has a home by 2012. The primary purpose of its 'Homes for All' campaign is to dramatically increase the preservation and production of affordable housing in Minnesota by raising public awareness, educating policy-makers on housing issues, and translating the needs of the people affected into community action.*

*Arizona has created a permanent Housing Commission to advise state agencies on housing issues. Composed of representatives of the housing industry, state and local officials, nonprofits, academics, and Native Americans, the commission has developed a comprehensive plan to meet the state's housing needs.<sup>44</sup>*

**Alternative Approach 7.1:** Formal mechanisms could be explored and executed to establish, implement, and monitor a coordinated approach to affordable housing policy and programs in Florida.

***Therefore, it can be concluded that the Housing Elements do not provide a foundation that could guide funding proposals to address a community's affordable housing needs.***

**Pro(s):**

- The process would provide state agencies a means to coordinate resources and approaches to addressing affordable housing needs.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- Identify the lead organizations involved in the creation and retention of affordable housing in Florida. These organizations could include the Departments of Children and Family Services, Community Affairs, Elder Affairs, and Financial Services; Florida Housing Finance Corporation; Affordable Housing Study Commission; Agency for Persons with Disabilities; Division of Emergency Management; Regional Planning Councils; cities and counties; and the private sector.
- Identify the programs and services (i.e., downpayment assistance, rehabilitation, rental assistance, homebuyer counseling, new construction, etc.) needed by Florida's affordable housing populations.
- Inventory existing services and programs as well as service areas and eligibility requirements.
- Determine how coordination between and among programs may enhance addressing the identified needs.
- Implement and monitor changes as needed.



## VIII

### LINKAGE PROGRAMS AND INCLUSIONARY ZONING AS TOOLS FOR PROVIDING AFFORDABLE HOUSING

*“Make no little  
plans; they have  
no magic.”*

Daniel Burnham  
Urban Planner

Linkage programs and inclusionary zoning are land use planning techniques intended to address the notion that the private sector and new development should play a role in mitigating a community's affordable housing demand. Florida's growth management system does not mandate, nor preclude, local governments from enacting either technique.

Inclusionary zoning requires developers to make available, in new residential developments, a certain number of housing units that will be affordable to a targeted population, usually low- and moderate-income households. In exchange, the developer is provided non-monetary compensation, such as density bonuses, zoning variances, and/or expedited permits. The objective of adopting an inclusionary zoning ordinance may vary, but generally it increases a local government's supply of affordable housing units as well as produce mixed-income neighborhoods.<sup>45</sup> (See *Addendum 5-1* for the complete article). Inclusionary zoning has been identified as a tool in meeting not only the very-low to low-income market, but also the increasingly growing medium-income affordable housing market.<sup>46</sup>

Linkage programs require new, non-residential development (i.e., industrial, commercial and office) to mitigate their impact on affordable housing. A linkage program must first establish through a nexus study that there is a link between new development and the need for additional affordable housing.<sup>47</sup> If the nexus study demonstrates there is a need for non-residential development to mitigate its affordable housing impacts, a proportional fee system is then developed and is intended to meet the requirements established by the U.S. Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994). The Supreme Court ruled that “municipalities must demonstrate a reasonable relationship or ‘rough proportionality’ between the projected impact of the proposed development and the required dedication.”<sup>48</sup>

### *Inclusionary Zoning in Florida*

The data show that only four local governments - Coral Springs, Groveland, Monroe County, and Tallahassee - have adopted an inclusionary zoning ordinance. Generally these ordinances are similarly structured across the four jurisdictions. *Addendum 5-2* highlights important elements of each ordinance. The full ordinance text for each local government can be found in *Supporting Documents*, Section 5-2.

While the purpose and intent of the four local governments' inclusionary zoning ordinance address similar issues, there are some noteworthy differences. Coral Springs' and Monroe County's ordinances express an explicit intent to hold new residential developments responsible for the provision of new housing (Coral Springs) and not "exacerbate" the need for affordable housing (Monroe County). Tallahassee's ordinance contains a higher number of purposes which range from the general intent of promoting the Housing Element to encouraging a balanced distribution of affordable housing opportunities. The Monroe County ordinance seeks to ensure that established mobile home uses are consistent with current building and safety standards. The Groveland ordinance does not explicitly state its purpose or intent.

"Applicability" within these ordinances defines which proposed developments fall under the inclusionary zoning stipulations as determined by number of units only (Groveland, Monroe County), or number *and* location (Tallahassee) of inclusionary units. The Monroe County ordinance also has provisions for the removal and replacement of housing units with mobile home units and a method for calculating the number of units required. Both the Groveland and Tallahassee ordinances allow for the aggregation of two developments to qualify for inclusionary incentives. The applicability requirements for Coral Springs are listed in the general requirements section.

The use of density bonuses is the primary incentive for developers and is present in all four inclusionary ordinances. Expedited review (Coral Springs, Tallahassee), a range of housing options (Groveland), floor area bonuses (Monroe County), and design flexibility (Tallahassee) are examples of other incentives. Tallahassee has the widest range of incentives to provide inclusionary housing.

An inclusionary housing plan is required by three of the four local governments (Coral Springs, Groveland, and Tallahassee). The requirements from each ordinance mirror each other for the most part. For example, requirements include: number, location and size of the proposed development; a site plan; and a phasing plan (if applicable). Unique to Coral Springs is required language that addresses methods for advertising (to the public) the availability of the inclusionary units.

All four local governments have established an Affordable Housing Trust Fund for the collection of associated fees or payments. Each ordinance mandates that funds be used only for specific causes such as downpayment assistance to eligible households and resale gap for inclusionary units (Coral Springs) and financial incentives for the conversion of transient units and financial aid to developers as project grants for affordable housing (Monroe County). The City of Groveland has a stand-alone section that establishes an Inclusionary Housing Trust Fund Board along with the specific uses for funds collected. Tallahassee's Affordable Housing Trust Fund is only cited once within the inclusionary housing ordinance and offers only limited instruction as to the requirements of the fund.

All four local governments allow certain developments to be exempt from the inclusionary housing requirements. Both Coral Springs and Groveland exempt proposed residential developments that submitted applications prior to the adoption of the ordinance. Groveland and Tallahassee exempt multi family and multi-unit residential developments from the inclusionary housing requirements. Additionally, Tallahassee contains a locational exemption of any development in the Southern Strategy Area that is not within a Critical Planning Area (CPA), Targeted Planning Area (TPA), or Development of Regional Impact. (These designations have since been reclassified as “Planned Development Districts” through a Tallahassee-Leon County Comprehensive Plan amendment). Coral Springs exempts developments that are designated casualty reconstruction projects.

All four local governments allow developers an alternative to providing actual inclusionary units, the most common of which is in lieu payments. All payments to each local government made in lieu of providing housing are directed to the respective Affordable Housing Trust Fund. Coral Spring’s only alternative is the payment in lieu; however, Groveland, Monroe County, and Tallahassee allow for land donation as an alternative to the construction of inclusionary units. Additionally, Tallahassee accepts the construction of multi family, rental developments as an alternative.

The administration and compliance procedures across the four local governments vary widely. Sections of the Coral Springs ordinance that fall under this element include requirements for construction standards of inclusionary units (i.e., design, size of units, and timing of construction) and sales and rental prices for inclusionary units. Most notably, this section of the Groveland ordinance establishes a minimum set of requirements that includes basic development characteristics (i.e., tenure, type, size, and number of inclusionary units). Additionally, no building permits can be issued until both the inclusionary housing plan and housing agreement is recorded. Monroe County mandates that restrictive covenants must be filed to the Official Record of Monroe County before any building permit is issued (covenants remain in effect for either 30 or 50 years). The ordinance also requires that the affordable housing homeowner annually submit an affidavit to verify that all income and employment requirements are maintained. Finally, Tallahassee’s administrative requirements grant the Department of Neighborhood Community Services and the Growth Management Department the power to interpret the provisions set forth in the ordinance. Similar to Groveland, compliance procedures mandate that an inclusionary housing plan must be approved prior to the issuance of building permits.

Three of the four local government (Coral Springs, Monroe County, and Tallahassee) ordinances have a section dedicated to monitoring and review. These procedures are similarly structured across the three local governments. Most notable in all three ordinances is a requirement that a report or status update be provided to the city/county commission by either the city manager (Coral Springs and Tallahassee) or planning director (Monroe County). Finally, the inclusionary housing ordinance in Tallahassee states that it will be no longer effective after October 1, 2007, unless the city commission saves the ordinance through passing a resolution and extending its term. [Note: Ordinance No. 07-0-48, passed September 2007, has since amended the Tallahassee Land Development Code to delete the sunset provision and avoid repeal of the inclusionary zoning ordinance]

Three of the four ordinances (Coral Springs, Monroe County, and Tallahassee) have miscellaneous provisions that are unique to the respective ordinance. In Coral Springs, the ordinance establishes criteria for qualifying affordable homebuyers, a priority system for eligible homebuyers, and the establishment of a second mortgage assistance program. Monroe County establishes regulations that require the developer to pay a bond of 110% of the in lieu fees if certain requirements are not met. Additionally, the section addresses basic standards the developer must follow to be in compliance with the inclusionary housing ordinance. These standards include, among others: housing sale price restrictions, minimum household income thresholds, and minimum restrictions on length of affordability. Finally, Tallahassee addresses vested rights for certain developments (such as site plan approvals, PUD concept approvals, etc.) and an appeals process for subdivision and development orders.

### *Linkage Programs in Florida*

Of those surveyed, the data show that only two local governments - Coconut Creek and Winter Park - have a linkage ordinance, and more specifically, an affordable housing linkage fee.

The purpose/intent of the Coconut Creek linkage program is stated simply to fund the affordable housing program. On the other hand, the linkage fee ordinance for Winter Park offers multiple reasons for the adoption of the ordinance, from promoting the public health, safety and general welfare, to ensuring that the developer pays for its fair share of development.

The Coconut Creek linkage program assessment applies to all new non-residential construction (including within a mixed-use project), building additions, and building renovations. Winter Park similarly assesses its linkage program to new (not just non-residential) construction, building additions, and renovations. Additionally, Winter Park's assessment section mandates fees to be paid at the time building permits (both residential and non-residential) are issued.

The linkage program schedule for Coconut Creek includes Industrial, Commercial, Office, Hotel, and Limited Hotel categories; the fees vary widely from \$.37/sq. ft. (Industrial) to \$2.42/sq. ft. (Hotel). Conversely, Winter Park's payment schedule is divided into residential and non-residential (both \$.50/sq.ft.).

Both city ordinances exempt certain building types from the linkage program. Coconut Creek exempts education, religious, charitable, governmental, and 501(c)(3), non profit uses. The code also grants the Director of Development Services the ability to interpret and make decisions regarding qualifying developments. Winter Park's exemptions are limited to residential buildings or projects that are either part of the its affordable housing program or projects with a set-aside of housing units that qualify under the definition of affordable housing units.

The Coconut Creek ordinance contains some miscellaneous provisions including an alternative to payment of the affordable housing linkage fee (at the discretion of the city commission); the developer's right to have an independent impact analysis, which enables the developer to contest the nexus between development and affordable housing; and the establishment of an affordable housing trust fund to be used at the discretion of the city commission. Winter Park has no miscellaneous provisions.

To summarize some of the major findings regarding inclusionary zoning and linkage programs in Florida:

- Inclusionary housing ordinances have only recently been adopted across the state;
- There is a similarity in the structure and general requirements of all four inclusionary housing ordinances and both linkage fee ordinances;
- Density bonuses and land donations are the primary incentives used for the production of inclusionary units;
- All four inclusionary housing ordinances and one (Coconut Creek) linkage fee ordinance offers the developer an alternative payment option in lieu of constructing affordable units;
- An Affordable Housing Trust Fund is used as a collection pool for all four inclusionary housing ordinances and one (Coconut Creek) linkage program ordinance;
- Three of the inclusionary ordinances (Groveland, Monroe County, and Tallahassee) and both linkage ordinances contain exemptions for certain development types; and
- The monitoring process is primarily the responsibility of the respective planning directors and status reports are required to be presented to the city or county commission.

While there is limited historical data to determine how well linkage programs are addressing affordable housing demand in Florida, other communities throughout the nation were reviewed. This review examined how the technique has been employed, including the issues each community faced in their adoption and implementation phases. According to the City of Winter Park's "2006-2007 Annual Budget":

*The City of Winter Park's Affordable Housing Program was created in August 1990. A linkage fee or building permit surcharge of 50 cents per square foot on all new buildings, additions to buildings, and substantial remodeling projects generates approximately \$200,000 annually. The City's program supports the production of affordable housing units through a number of strategies. Habitat for Humanity receives direct financial contribution determined each year through the budget process. These direct contributions allow Habitat for Humanity to secure lots anywhere in the City for home construction. In addition, the program has been broadened to support a number of other initiatives from down payment assistance programs to support for affordable multi-family projects.<sup>49</sup>*

Like the City of Winter Park, data regarding linkage programs from non-Florida cities is limited to the amount of revenue generated. *Table 2* summarizes the revenue generated from various programs across the country.

**Table 2- Revenue Generated from Various Linkage Programs, Nationwide**

City	Fee(s)	Year Enacted	Revenue (from Year Enacted to 2000)
Berkeley, CA	Office space, \$5.00/sf Retail, \$5.00/sf Industrial, \$2.50/sf	1988	\$2 million
Boston, MA	\$5.00/s.f. plus a \$1.00/sf jobs payment	1986	\$45 million allocated for construction of 5,000 units
Cambridge, MA	Commercial, hotel, retail, and Institutional, \$3.00/sf	1988	\$750,000 and has \$2.5 million in the pipeline.
Palo Alto, CA	Commercial uses, \$4.03/sf	1984	\$7 million
San Diego, CA	Office space, \$1.06/sf Hotel, \$0.64/sf Res. And Dev., \$0.80/sf Retail, \$0.64/sf Manufacturing, \$0.64/sf Warehouse, \$0.27/sf	1990	\$33 million
San Francisco, CA	Office space, \$11.34/sf Entertainment, \$10.57/sf Hotel, \$8.50/sf Research and development, \$7.55/sf Retail, \$10.57/sf	1981	\$40 million
Seattle, WA	Purchase extra floor-area ratio (FAR) by providing amenities, historic preservation, child care, or affordable housing. Alternatively, a developer can choose to buy the bonus FAR at \$20/sf (\$13 in the secondary office market districts).	1989	166 units and \$5 million

*Source: Boston Redevelopment Authority*

It should be noted that the amount of revenue generated in relation to a city's affordable housing demand was not analyzed, since that data was not available. Additionally, there is not consensus regarding the viability of linkage programs. The Non-Profit Housing Association of Northern California identified the following issues and responses regarding linkage programs.

**Argument:** Linkage programs will reduce a city's competitiveness for business.

**Response:** Increasingly in the Bay Area, businesses look at multiple factors in deciding where to build a new office or factory, including the availability of affordable housing. Businesses have learned that the availability of housing affordable to their workers affects their bottom line in several ways, including the costs of repetitively hiring and training employees due to high turnover rates.

**Argument:** Even if they do not have a negative effect on business development during boom times, in leaner economic times linkage fees will hurt the local government by dissuading new businesses from coming to those cities.

**Response:** Linkage fees and even property taxes represent such a small factor/cost in a business decision on where to locate or develop.

**Argument:** Linkage fees are unfair because they force businesses to solve the broader "social problem" of lack of affordable housing.

**Response:** Every sector of society needs to shoulder its part in dealing with the need for affordable housing. New jobs do attract new people into a community, and these people need a place to live. If employers cannot pay their workers enough to enable them to buy or rent housing near their work, it is unfair for businesses to require other cities to build the housing, and to force the rest of the region to bear the additional traffic congestion, pollution and other environmental costs caused their workers' long commutes. Many leading businesses have recognized their civic responsibility to play a constructive role in addressing the affordable housing needs of their workers.<sup>50</sup>

Since linkage programs require a nexus study as the basis for determining whether non-residential development is adversely impacting the supply of affordable housing, the practicality of its employment within a community would also be assessed.

A review of inclusionary zoning ordinances of non-Florida communities also was conducted. One of the nation's best known inclusionary zoning programs was created by the Montgomery County, Maryland County Council on October 23, 1973. According to the Montgomery County, Department of Housing and Community Affairs:

*The legislation required that 15 percent of the total number of dwellings in every subdivision containing 50 or more units be affordable to moderate-income households. The total density of the subdivision could be increased by 20 percent. An amendment gave the County's public housing authority (The Housing Opportunities Commission-HOC) the right to purchase one-third of the moderate priced units produced in each subdivision. These units would be used for the Commission's own programs for assistance to low-income tenants.*

*The County Executive vetoed the legislation because he believed it to be unconstitutional, invasive public policy, and too difficult to administer. On November 6, 1973, the Council overrode the executive veto and the Moderately Priced Housing law became effective on January 21, 1974.*

*The proposed legislation raised a number of questions. One of the most important issues dealt with the constitutional question of whether this requirement constituted a taking of property without compensation. Another issue dealt with the implications of the government requiring owners of expensive homes to live side by side with moderate and low-income neighbors. Real estate appraisers raised the question of what economic impact affordable units would have on the value of the more expensive homes in the subdivision. A corollary concern was whether higher income buyers would choose not to purchase homes in Montgomery County in favor of other Washington suburbs that did not have an affordable housing requirement. An alternative proposal was submitted by home builders that would allow a developer to fulfill the affordable housing requirement of a subdivision by constructing the units at another location.<sup>51</sup>*

According to authors Dr. Robert W. Burchell and Catherine Galley (Rutgers University's Center for Urban Policy Research), there are several pros and cons to inclusionary zoning programs.

The pros of inclusionary zoning include:

- Creates economically diverse communities at little or no direct financial cost for local governments;
- Reduces the potential for enclaves of affordable housing units;
- Benefits suburban and exurban employers further with the presence of a proximate low- and moderate-income work force. Inclusionary zoning significantly reduces the oft-cited spatial mismatch between available suburban jobs and employment-seeking urban households; and
- Works best when pooled with developer incentives; however, it has produced more affordable units when the targeted populations are closest to median income.

The authors also identified the following cons regarding inclusionary zoning:

- Changes the financial characteristics of real estate developments and reduces the saleable value of the development upon completion;
- Operates as a development tax. The developer makes zero economic profit with or without inclusionary zoning, so the implicit tax is passed on to consumers (housing price increases) and landowners (the price of vacant land decreases). In other words, housing consumers and landowners pay for inclusionary zoning; and
- Relies too heavily on the market. Another deficiency of the inclusionary zoning strategy is that it is based on a market-supply equation that relies primarily upon a developer's ability to sell market-level units – as an example, eight market units for every two affordable units produced. This reliance on the private sector to finance affordable housing based on the sale of market units is not necessarily a major issue when the economy flourishes, but it is a very serious one when the economy falters.<sup>52</sup>

Dr. Burchell and Ms. Galley conclude “inclusionary zoning will continue to be sought in tight and expensive housing markets where there is socially responsible interest in providing both housing opportunity and economic balance. The technique must be implemented cautiously, however, with sensitivity to the locality paying for it and the population benefiting from it.”<sup>53</sup>

The design and implementation of an inclusionary zoning program requires the examination of a myriad of issues and desired outcomes. The Enterprise Foundation, Inc. has prepared a checklist, which identifies relevant issues to be considered during the process of developing an inclusionary zoning program. It is included in *Addendum 5-3*.

**Issue 8:** Inclusionary zoning and linkage programs are tools that communities in Florida may voluntarily enact to aid in the production of affordable housing. These tools also are being used by communities in Florida as well as around the country. However, their use is neither mandated nor widespread.

**Alternative Approach 8.1:** Legislation could be considered that would require all communities to develop and adopt inclusionary zoning and linkage program ordinances. A *de minimis* option could be included for communities where residential and/or non-residential growth rates are below a determined threshold. This requirement could allow Developments of Regional Impact and sub-threshold developments to address affordable housing in a consistent and equitable manner. Also, this requirement would eliminate the use of the East Central Florida Regional Planning Council’s housing methodology. It is critical that the operational steps below be implemented before any legislation is sought.

**Pro(s):**

- This requirement could allow Developments of Regional Impact and sub-threshold developments to address affordable housing in a consistent and equitable manner.
- This requirement could aid the creation of mixed-income communities.
- This requirement could produce additional sources for the provision of affordable housing units.
- The *de minimis* requirement could provide rural and slow-growth communities the option to not adopt ordinances until their demand for affordable housing increases.

**Con(s):**

- This requirement could be considered to create an additional expense for new development and could be viewed as disincentives to economic development.
- A *de minimis* requirement could have the unintended consequence of creating premature development demands in rural and slow-growth communities.

***Operational Steps:***

- Since inclusionary zoning and linkage programs are tools that a limited number of governments have adopted in Florida, their prescribed use should be prefaced by technical assistance, training, and education programs. The curricula could address:
  - ✓ Determining if the inclusionary zoning and/or linkage program should be employed community-wide or include exemption areas.
  - ✓ Determining the targeted affordable housing population to be served (i.e., extremely-low-, very-low-, low-, and/or moderate-income). As noted by Dr. Burchell, inclusionary zoning programs have shown the most success when the targeted population is close to median income.
  - ✓ Determining ways to partner inclusionary zoning and linkage programs with other planning techniques such as infill strategy, job-housing balance, and proximity to transit services.
  - ✓ Determining the type and amount of incentives that will be used to implement the inclusionary zoning program. For example, a density bonus is usually provided to developers, with the additional units dedicated for affordable housing. An additional incentive for consideration would be doubling the density bonus, with 50% of the additional units dedicated to affordable housing and the remaining 50% available to the developer for the construction of market-rate units.
  - ✓ Determining the appropriate geographic area for the linkage program's nexus study.
  - ✓ Determining the percentage of units to be set aside for affordable housing and the amount of fees to be paid by non-residential development. While the nexus study for linkage programs serves as the basis for establishing fees for non-residential development, there does not appear to be a uniformly accepted technique for determining the inclusionary zoning ordinance's residential set-asides.
  - ✓ Determining whether inclusionary zoning set-asides may be alternatively fulfilled by off-site construction, cash contribution, and/or land donation. If alternative processes will be used, the training could also address: (a) whether the amount of mitigation equals the purchasing power for the targeted income population homebuyer, (b) the gap between purchasing (or rental) power and median sales (or rents) in the community, (c) the amount of subsidy the public contributes for homebuyers and renters in the community, or other standards, (d) whether mitigation may be addressed by on- or off-site construction and how the option compares to cash or land donations, and (e) the amount of time rental assistance may be provided, if the option is employed.
  - ✓ Determining long-term preservation of affordable units.
  - ✓ Determining incentives for linkage programs. For example, incorporating an exemption from mandatory commercial fees for vertical mixed-use developments.

- Explore which programs could be used to fund nexus studies.
- Coordinate with the Florida Legislature on potential changes to Chapter 163, Part II, F.S., and Chapter 380, Part I, F.S.
- Conduct public workshops to receive input regarding potential revisions to Rules 9J-2 and 9J-5, F.A.C.
- Revise Rules 9J-2 and 9J-5, F.A.C., as necessary.

**Alternative Approach 8.2:** The use of inclusionary zoning and linkage programs as additional tools that can be used to increase the production of affordable housing could be promoted, but their use would not be prescribed.

**Pro(s):**

- This requirement could aid the creation of mixed-income communities.
- This requirement could produce additional sources for the provision of affordable housing units.

**Con(s):**

- This requirement could be considered to create an additional expense for new development and could be viewed as a disincentive to economic development.

**Operational Steps:**

- The promotion of inclusionary zoning and linkage programs could be accomplished by technical assistance, training, and education programs. The curricula could address:
  - ✓ Determining if the inclusionary zoning and/or linkage programs should be employed community-wide or include exemption areas.
  - ✓ Determining the targeted affordable housing population to be served (i.e., extremely-low-, very-low-, low-, and/or moderate-income). As noted by Dr. Burchell, inclusionary zoning programs have shown the most success when the targeted population is close to median income.
  - ✓ Determining ways to partner inclusionary zoning and linkage programs with other planning techniques such as infill strategy, job-housing balance, and proximity to transit services.

*Inclusionary zoning will continue to be sought in tight and expensive housing markets...The technique must be implemented cautiously, however, with sensitivity to the locality paying for it and the population benefiting from it.*

- ✓ Determining the type and amount of incentives that will be used to implement the inclusionary zoning program. For example, a density bonus is usually provided to developers, with the additional units dedicated for affordable housing. An additional incentive for consideration would be doubling the density bonus, with 50% of the additional units dedicated to affordable housing and the remaining 50% available to the developer for the construction of market-rate units.
  - ✓ Determining the appropriate geographic area for the linkage program's nexus study.
  - ✓ Determining the percentage of units to be set aside for affordable housing and the amount of fees to be paid by non-residential development. While the nexus study for linkage programs serves as the basis for establishing fees for non-residential development, there does not appear to be a uniformly accepted technique for determining the inclusionary zoning ordinance's residential set-asides.
  - ✓ Determining whether inclusionary zoning set-asides may be alternatively fulfilled by off-site construction, cash contribution, and/or land donation. If alternative processes will be used, the training could also address: (a) whether the amount of mitigation equals the purchasing power for the targeted income population homebuyer, (b) the gap between purchasing (or rental) power and median sales (or rents) in the community, (c) the amount of subsidy the public contributes for homebuyers and renters in the community, or other standards, (d) whether mitigation may be addressed by on- or off-site construction and how the option compares to cash or land donations, and (e) the amount of time rental assistance may be provided, if the option is employed.
  - ✓ Determining long-term preservation of affordable units.
  - ✓ Determining incentives for linkage programs. For example, incorporating an exemption from mandatory commercial fees for vertical mixed-use developments.
- Explore which programs could be used to help fund nexus studies.



# IX

## ADDITIONAL TOOLS TO MEET THE NEEDS OF VERY-LOW TO MODERATE INCOME HOUSEHOLDS

*The point of  
cities is  
multiplicity of  
choice.*

Jane Jacobs  
Urbanist, Writer, &  
Activist

The following is a listing of additional tools that local communities could use to increase the production of affordable housing.

**Density Bonuses.** This is a technique that allows developers to build additional residential units in exchange for the provision of affordable housing. In Florida, the application of density bonus can have policy implications that could be addressed through technical assistance, training, and education programs. The prospective policy implications are:

- Whether the additional units will be subject to traditional concurrency impact review;
- Whether the additional units can exceed the Future Land Use Map's maximum density allowed for the residential category as well as the community's overall, residential allocation.
- Whether the additional units are granted by right or through a local government's Special Conditions process.

The density bonus issues should also be addressed in the context of incentives for accessory dwelling units.



**Community Land Trusts.** According to the Institute for Community Land Trusts, a community land trust is defined as “a private nonprofit corporation created to acquire and hold land for the benefit of a community and provide secure affordable access to land and housing for community residents. Community land trusts develop housing through renovation or new construction, and sell (or sometimes rent) the units to low-income families; the community land trust leases the land to the families, who agree to restrictions on how the house can be transferred in the future. As a result, community land trusts are able to produce high-quality affordable housing, and keep it affordable in perpetuity.”<sup>54</sup> The conditions between the community land trust and the homeowner are generally within the ground lease contract, and common conditions include:

- “Limitations to building improvements and subleasing, including stipulations that limit absentee ownership;
- A clause allowing the community land trust the first right to repurchase the property at sale or when a mortgage is in default; and
- A formula for determining the resale price of the property.”<sup>55</sup>

A couple of common concerns regarding community land trusts are homeowners who may be subject to unequal burdens and outcomes. The unequal burden argument stems from areas where property within a community land trust is taxed at the same rate as other properties. In these cases, community land trust homeowners may pay more proportionally, since they pay all taxes associated with the property versus the taxes for the portion where they build. In addition, the restriction on resale is considered a burden since a homeowner would not be able to retain all of the potential equity in the event he or she sells.<sup>56</sup>

To address the accrued equity issue, proponents of community land trusts indicate the model is intended to address long-term affordability rather than asset development.<sup>57</sup> In addition, community land trust advocates contend the equity issue does not arise that often since resale and turnover rates are low. The Durham Community Land Trust (Durham, North Carolina) has renovated and sold or rented 109 units since 1987, while only two units (less than two percent) have been sold by their original owners in the initial 15 years.<sup>58</sup>

**Employer Assisted Housing Programs.** These programs are intended to encourage employers to provide financial assistance in the form of downpayment and closing costs for homeownership, rental assistance, and utility deposits, to their employees. In some states, such as Connecticut and Illinois, employers receive tax benefits for their assistance efforts.

The following is a summary of Employer Assisted Housing Programs from the “Final Report of the Arizona Incentives for Affordable Housing Task Force”:

***University of Chicago, Employer Based Homeownership Program Chicago, Illinois***

The University of Chicago established an Employer Assisted Housing Program (EAHP) in 2003 for its employees (as well as those of the University Hospital). The overarching goal of the program is to encourage University employees to live within close proximity to the campus and thereby cut commuting times, as well as spur investment in surrounding neighborhoods. The program was developed in partnership with the Metropolitan Planning Council (MPC), Neighborhood Housing Services of Chicago (NHS) and the City of Chicago. MPC has been working with dozens of employers throughout the Chicago region since 2000, developing similar employer-assisted housing initiatives. At the University, NHS provides homeownership education and access to other assistance programs, in partnership with the Illinois Housing Development Authority (IHDA) and the Chicago Department of Housing (DOH). The University of Chicago EAHP makes available a \$7,500 forgivable loan to qualified employees to use toward downpayment or closing costs of homes purchased in the Hyde Park, North Kenwood-Oakland, Washington Park or Woodlawn neighborhoods that immediately surround the campus. Further, the state—through the IHDA—offers a downpayment match based on household income and size, providing up to \$5,000 for households earning less than 50 percent of the region's AMI, or up to \$3,000 for households earning between 50 and 80 percent of AMI. Additionally, the State of Illinois offers a financial incentive to employers for participating in an EAH program. Through the Illinois Affordable Housing Tax Credit Program, an employer is eligible to receive a \$.50 tax credit on income tax liability for every \$1 in cash, land, or property donated for the creation of affordable housing or otherwise invested in EAH. Further, the tax credits are transferable, giving the University of Chicago and the University Hospital the opportunity to sell them to an individual or corporation with state tax liability. Initially, the EAHP was implemented as a limited pilot program, setting aside enough funds to cover 70 employee loans over two years.

***HomeStreet Bank's Affinity Lending Department Seattle, Washington***

In 1994, the City of Seattle partnered with HomeStreet Bank to help address a concern brought up by the Seattle Police Chief that many of his employees could not afford to live in the city and were thus choosing to live in the outlying suburbs. This presented a multifaceted problem: on the one hand, Seattle's public employees living in the suburbs could not reasonably respond to a civil 19 emergency if called upon, and, on the other hand, their residence in the suburbs was likely contributing to traffic congestion and loss of revenue for Seattle. Further, the lack of affordability and the high cost of living within the city were also seen as potential drawbacks for retaining current workers and recruiting new employees. The City wisely responded by creating a homeownership assistance program for its police officers and firefighters. The program proved so successful that all City of Seattle employees were deemed eligible within a year after its inauguration. Shortly thereafter, the program was extended yet again to include a wide variety of institutions throughout Seattle and the Puget Sound region; over the years, a host of employers in the area have developed partnerships with the HomeStreet Bank's employer-assisted housing programs, now grouped together under the bank's Affinity Lending Department. The primary EAH program—known as the Hometown Home Loan Program—offers a 50 percent reduction on loan fees, discounted closing costs for home inspections, appraisals, and escrow fees, as well as free pre-approvals and home buying seminars. Some of the current participants in the program

*include employees of the University of Washington, several area school districts, local housing authorities and the Fred Hutchison Cancer Research Center, as well as all AFL-CIO affiliated members. To date, the most active partners in the program include the University of Washington (1,826 mortgages), the City of Seattle (1,862 mortgages), and the AFL-CIO (2,921 mortgages). While offering savings to employees pursuing inner-city homeownership, the program addresses several other issues, including reducing traffic, allowing employees to live closer to their jobs, and is a means to both retain and recruit employees. The program has received assistance from the Washington State Housing Finance Commission, the City of Seattle, Fannie Mae, and the Federal Home Loan Bank of Seattle, in addition to the participating employers and institutions.*

### ***HOPE (Homeownership for Performing Employees) New Jersey***

*For over 15 years, the New Jersey Housing and Mortgage Finance Agency (HMFA) has operated their HOPE (Homeownership for Performing Employees) program, an employer assisted housing program offering below-market, fixed-rate mortgages to workers of participating companies. Originally established as a means to help New Jersey employers attract and retain a competitive workforce, the program has evolved from mostly small mom-and-pop employers to including partnerships with a number of large casinos in Atlantic City. Offering a loan product specifically suited to first-time homebuyers of participating New Jersey companies, the HMFA funds the program by selling bonds. Employers are required to cover 20 percent of the loan if foreclosure should take place within the first five years, an agreement akin to the company co-signing on the loan. To be eligible, employees must meet income and purchase price limitations; if determined eligible, homebuyers may borrow up to 100 percent of the market value of the home and are not required to make a downpayment. Further, the loan can be used to cover the closing costs. To date, 25 companies have been approved to participate in the HOPE program, with 15 actually having made loans. In total, 88 loans have been made through HOPE, worth nearly \$8 million.*

### ***Teacherwise Santa Fe, New Mexico***

*Teacherwise is a partnership between Homewise—a local not-for-profit organization—and the Santa Fe Public School District, offering teachers the opportunity to purchase or repair homes in Santa Fe. The overarching goal of the program is to improve the quality of life for teachers in Santa Fe, where the cost of living is far too high and incomes too low for teachers to pursue homeownership. Accordingly, the program is designed to help retain and attract educators in an area known for a high turnover rate among teachers. With support from the New Mexico Mortgage Finance Authority, Teacherwise offers low-interest mortgages to school employees in addition to downpayment and closing cost assistance. Further, Teacherwise provides homebuyer education 20 and financial counseling, educating teachers on ways in which to build equity, in addition to offering low-interest home repair loans for existing homeowners and discounted rentals for new teachers not yet looking to buy. Funding for Teacherwise is derived from land that developers in Santa Fe are required to provide to the school district; when this land is not needed for new schools, it is sold with the proceeds going directly into the capital fund that finances Teacherwise. In the first year and a half since the program was established, 22 teachers purchased homes with the assistance of Teacherwise.*

***Tyson Food, Inc. - Tyson Workforce Home Benefit Program 22 States***

*In February 2004, Tyson Foods established a \$50 million Workforce Home Benefit program to assist eligible Tyson employees pursue homeownership. A partnership between the Tyson Credit Union, Balance (financial counseling), National Credit Union Foundation and Freddie Mac, the Tyson program is one of the largest employer-driven, employer assisted housing programs in the country. The new program provides eligible Tyson employees access to homeownership counseling and flexible mortgage products, including downpayment and closing costs assistance when buying a home. The program is available to any Tyson employee that has been employed for a minimum of 2 years at the company, with a maximum household income placed at \$54,500 per year. Further, the program only applies to the purchase of single family, owner-occupied homes. Given that the Tyson program is still in its infancy, measurable results are still forthcoming. However, interest in homeownership assistance seems immense; as of October 2004, the program has received nearly 400 applications. Further, it has been estimated that 6,000 to 7,000 Tyson employees could be eligible for the program amongst the 22 states that the company currently has operations.*

***State of Connecticut – Employer Assisted Housing Tax Credit***

*The State of Connecticut has established an Employer Assisted Housing program as a way for employers to help their workers purchase or rent a home within Connecticut. Businesses are offered an incentive to participate in the Employer Assisted Housing program by receiving tax credits for their contributions to the program. Participating employers set up a revolving loan fund (between \$1,000 and \$100,000 annually) for eligible low- and moderate-income employees to meet their housing needs; in return, businesses receive a credit against their State business taxes equal to the amount paid into the revolving loan fund. Most businesses in the State are eligible to receive the benefit of the tax credit, with the exception of banks, trust companies, insurance companies, and other savings associations. Eligible employees must have a household income that does not exceed 140 percent of the area median income and may use funds from the program in several ways. Potential homebuyers may use the funds for downpayment assistance, to buy-down mortgage interest rates, or for customary closing costs, with the total assistance not to exceed 25 percent of the home price. Renters may use program funds for assistance with security deposits or for advanced rental payments. The total annual allocation to the program is \$1 million.*

**Community Redevelopment Agencies.** Section 163.340(10), F.S., defines a community redevelopment area as “a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment.” According to the Florida Redevelopment Association, a Community Redevelopment Agency administers the activities and programs within the Community Redevelopment Area. The local government creates a five- to seven-member Board that can be comprised of local government officials and/or appointees. There are currently 178 Community Redevelopment Areas in the State of Florida.<sup>59</sup>

The activities of Community Redevelopment Agency are adopted in the Community Redevelopment Plan that contains goals as well as a listing of projects to be undertaken. The Florida Redevelopment Association list the following as examples of traditional projects of Community Redevelopment Agencies: streetscapes and roadway improvements, building renovations, new building construction, flood control initiatives, water and sewer improvements, parking lots and garages, neighborhood parks, sidewalks and street tree plantings, facade improvements, sprinkler system upgrades, signs, and structural improvements.<sup>60</sup>

In some areas, the provision of affordable housing is an outcome for the Community Redevelopment Agency, but additional efforts may be needed to enhance the involvement of Community Redevelopment Agencies in the provision and rehabilitation of affordable housing.

**Preservation.** In this instance, preservation generally refers to activities and programs instituted to retain housing units at an affordable level. The Affordable Housing Study Commission’s “2006 Annual Report” examined the issues of preservation of multifamily units. The Report noted:

*Federal and state affordable housing programs have financed more than 275,000 units over the years, but the affordability restrictions on many affordable rental units are now expiring each year. A significant number of properties in the affordable inventory are over 20 years old, making their physical condition a concern.*

*The Commission discovered a number of obstacles that complicate the implementation of an affordable housing preservation policy. Financial barriers are the greatest obstacle to preservation with public sector programs generally not well positioned or sufficiently funded to encourage preservation. Lack of knowledge regarding the status of Florida’s assisted and conventionally financed housing stock can hinder creating and managing a thoughtful preservation strategy. Finally, across Florida’s affordable housing delivery system, stakeholders generally lack the tools and experience to handle preservation transactions, creating capacity barriers.*

The Report also contained the following recommendations:

**Recommendation:** Florida Housing Finance Corporation should create a Preservation Set-Aside for 9% Housing Credits to fund no less than 4 preservation deals or 400 units, whichever is greater, each year.

**Recommendation:** Florida Housing Finance Corporation should combine the acquisition and rehabilitation costs of a preservation transaction into a single total development cost and award a developer fee equivalent to that received for new construction.

**Recommendation:** The Florida Legislature should appropriate \$25 million for the creation of an affordable housing preservation bridge loan program, to be matched by private lenders to create a program totaling a minimum of \$50 million. This appropriation should not supplant funding for existing affordable housing programs.

**Recommendation:** The Florida Legislature should revise Section 420.5087 (6)(l), Florida Statutes, to allow moderate rehabilitation in the SAIL program, defined as repairs and upgrades equaling a minimum of \$10,000 per unit with a maximum amount equal to 40 percent or less of the appraised as-is value of the property, excluding land.

**Recommendation:** Florida Housing Finance Corporation should prioritize the preservation of project based rental assistance in its preservation funding efforts.

**Recommendation:** Unit Cap on Elder Development – Florida Housing Finance Corporation should eliminate the cap on the number of units that can be allowed in existing developments targeted to elders.

**Recommendation:** Set-Aside Commitment Compliance Periods – Florida Housing Finance Corporation should allow owners more time to bring a preservation development into compliance with its set-aside commitment. For properties with federal funding, the grace period should be the federally required 12 months. For SAIL or other state funding programs, this grace period should be 14 months.

**Recommendation:** The Florida Legislature should revise Section 420.9075(3)(e), Florida Statutes, to increase the per unit loan or grant limit on rental units which triggers annual monitoring and tenant income certification in the SHIP program from \$3,000 to \$15,000.

**Recommendation:** The Commission strongly encourages local governments to consider how unrestricted SHIP program income can support preservation of smaller affordable and conventionally financed housing properties.

**Recommendation:** Florida Housing Finance Corporation should allow HOME funds to be combined with other state administered funding programs to make preservation transactions financially feasible.

**Recommendation:** The Florida Legislature should revise Section 420.9072(6), Florida Statutes, to increase the administrative fee allowed on unrestricted SHIP program income to 10 percent to match the administrative fee allowed under the initial SHIP allocation.

**Recommendation:** Florida Housing Finance Corporation should prioritize comprehensive data collection on the properties in its portfolio and make this information available to the public through the Florida Housing Data Clearinghouse.

**Recommendation:** The Florida Legislature should adopt a notice policy with a minimum notification period of 12 months, covering prepayments and opt-outs for all affordable rental housing of 5 units or more with permanent financing from the state. The policy should pertain to developments funded after the date of policy adoption.

**Recommendation:** Florida Housing Finance Corporation should broaden the field of experienced and efficient developers by using the Affordable Housing Catalyst Training and Technical Assistance Program to provide a series of preservation workshops for nonprofit developers, public housing authorities and local governments.

**Recommendation:** Florida Housing Finance Corporation should deny any requests for termination of a Land Use Restriction Agreement or an Extended Use Agreement for the purpose of converting affordable rental units into condominiums.<sup>61</sup>

While the Affordable Housing Study Commission has attempted to address preservation of multifamily units, the issue of long-term preservation of affordable for-sale units is also an important issue. Tools to be considered to address this issue include shared equity homeownership (also known as limited equity housing), third sector housing, and permanently affordable homeownership. This class of ownership places resale restrictions on the home. Community land trusts, limited equity cooperatives, and deed restricted communities are examples of this category.

As with other Affordable Housing Study Commission reports, dedicated research has been conducted, but how the issues are incorporated into the fabric of Florida's affordable housing policy discussions is not clear.

**Use of Publicly-Owned Land for Affordable Housing.** In 2006, the Florida Legislature directed counties and municipalities to conduct an inventory of the lands they own that may be suitable for the development of affordable housing. Some communities around the country are exploring the idea of marketing these lands to the private sector with the construction of affordable housing (either on-site or off-site) as a condition of sale.

Communities need additional training about the options available for the use of publicly-owned land for affordable housing.

**Green Building.** The definition of 'green building' or 'green housing' varies widely. It can range from being energy efficient and using nontoxic interior finishes to being constructed of recycled materials and completely powered by the sun.<sup>62</sup> According to the Smart Communities Network, the concept of green building has the prospect of allowing homes to be constructed for less, while also lowering long-term operational and maintenance costs. For example, "Houses that are energy-efficient...use less energy than their conventional counterparts, which makes them more affordable to lower-income families. Smaller designs and alternative and salvaged building products rely less on precious resources and can cost less than traditional approaches."<sup>63</sup>

Although initially expensive, green buildings may provide an option to increase the provision of affordable housing, while providing future residents the means to lower their homeownership costs. They may also prove more cost effective in multi family buildings.

**Linking Transportation Exactions, Transit, and Affordable Housing.** In 2007, the Florida Legislature enacted Senate Bill 1735, which included language encouraging the location of affordable housing near areas served by transit. The co-location of transit and affordable housing provides benefits to the target populations and employers while concomitantly reducing the potential for additional traffic congestion.

Exemptions from transportation concurrency have been used as incentives to limit sprawl and encourage infill. As will be discussed in Section X, “Housing Requirements of the Development of Regional Impact Process”, transportation exactions are one of the major costs of development. The concept of providing credits toward transportation exactions in exchange for the provision of affordable housing units in desired areas (i.e., near employment centers, as part of infill strategies, supporting Urban Service Areas, and served by transit) could be explored.

**Expedited Permitting.** Expedited permitting and the waiver of certain permitting standards are incentives often highlighted in affordable housing literature. In addition, the Florida Legislature has recommended local communities to explore using these techniques. Section 420.9076(4), F.S., which articulates the process recipients of State Housing Initiative Partnership (SHIP) may undertake to institute incentives for affordable housing, and Rule 9J-5.010, F.A.C., which establishes the minimum requirements for the Housing Element. Both Statute and Rule specifically direct local governments to consider expedited permitting as an option.

**Issue 9:** In 2007, the Florida Legislature enacted Senate Bill 1735, which - among other things - directed participants in the State Housing Initiative Partnership (SHIP) Program to reinstitute their Affordable Housing Advisory Committee. The Affordable Housing Advisory Committee assisted in the development of the initial Local Housing Advisory Plan (LHAP), in 1992, by providing input regarding eliminating regulatory barriers and streamlining the development review process. According to Stan Fitterman, one of the Florida Housing Coalition’s technical assistance providers, many communities disbanded their Affordable Housing Advisory Committee after they completed their Housing Assistance Plan.<sup>64</sup>(See *Addendum 6-1* for complete article).

Section 420.9076(4), F.S., directed the Affordable Housing Advisory Committee to meet and submit a report every three years and “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.”<sup>65</sup>

To ensure a coordinated approach is taken, the Affordable Housing Advisory Committee must be jointly staffed by the local planning department and the local housing department.<sup>66</sup> The reconstituted Local Housing Advisory Committee represents a medium to address the specific land use review and approval process, potential changes to the development review process, and the production of additional planning tools (including those discussed within this Report) that could enhance the production of affordable housing. Efforts should be taken to provide the Committee with the foundation to accomplish its mission.

**Alternative Approach 9.1:** The Department, in conjunction with the Florida Housing Finance Corporation, could develop technical assistance, training, and education for Affordable Housing Advisory Committee members and staff, non profits, and builders/developers. At a minimum, the training should address pertinent land use planning issues and strategies regarding affordable housing and present information on best practices of Florida communities. In addition, the training should provide guidance regarding Section 420.9076(4), F.S., which articulates the process recipients of State Housing Initiative Partnership (SHIP) may undertake to institute incentives for affordable housing, and Rule 9J-5.010, F.A.C., which establishes the minimum requirements for the Housing Element, both direct local governments to consider expedited permitting as an option.

**Pro(s):**

- The affordable housing needs and desired outcomes vary by community. The available solutions and incentives should not be considered panaceas. Technical assistance, training, and education programs could provide Florida's communities and developers the ability to tailor approaches to their specific needs.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The Department, in conjunction with the Florida Housing Finance Corporation, could develop training curricula for the Affordable Housing Advisory Committee, their staff, the private sector, and other interested persons.

**Issue 10:** In 2006, the Florida Legislature directed counties and municipalities to conduct an inventory of the lands they own that may be suitable for the development of affordable housing. The State of Florida, through the Bureau of State Lands of the Department of Environmental Protection, has conducted a similar inventory of lands to determine their viability for affordable housing. Federally-owned lands are managed through the U.S. Department of Interior; however, they have not conducted an analysis of the suitable of their lands for affordable housing.

The majority of the lands owned and managed by the Bureau of State Lands and U.S. Department of Interior were purchased to meet environmental or recreation/open space goals. A system is needed to determine how and when state- and federally-owned lands should be made available for affordable housing.



**Alternative Approach 10.1:**

The Bureau of State Lands of the Department of Environmental Protection, in conjunction with the appropriate representatives from the Department of Interior, could begin to develop guidelines that determine how and when state- and federally- owned lands should be made available for affordable housing.

**Pro(s):**

- Previously unavailable land may increase the supply of land devoted to affordable housing.
- The State already has a framework in place; applying similar guidelines may increase the effectiveness of the analysis.

**Con(s):**

- Federal interests may not be aligned with those of the State, region, or local government.

**Operational Steps:**

- Begin outreach to the Department of Interior
- Assess the State's model; integrate all applicable portions to the federal model.
- Develop process for local governments, builder/developers, and other interested parties to access the land.



# X

## HOUSING REQUIREMENTS OF THE DEVELOPMENT OF REGIONAL IMPACT PROCESS

*"When people lack jobs, opportunity, and ownership of property, they have little or no stake in their communities."*

**Jack Kemp**  
**Former Secretary of**  
**HUD**

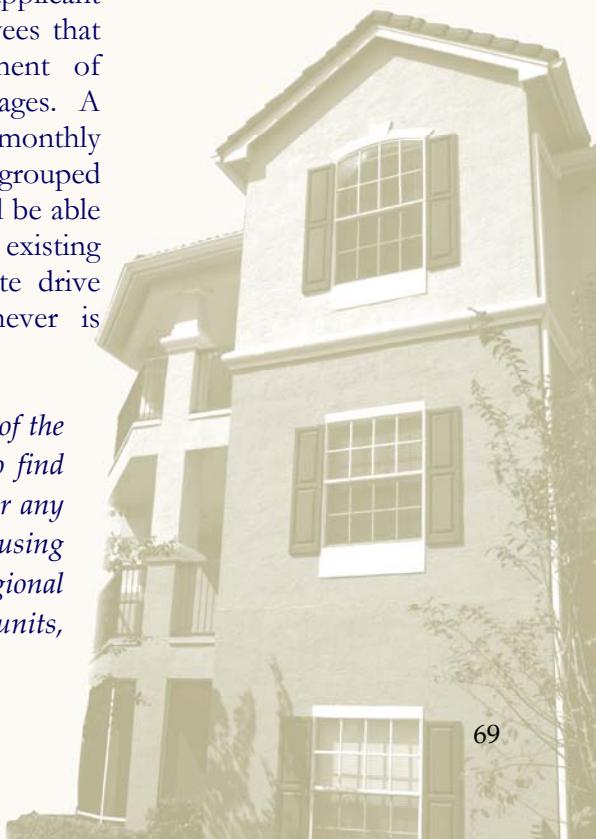
*A development shall be considered to have a significant impact on the ability of the development's very low, low, and moderate income employee households to find adequate housing reasonably accessible to their place of employment when, for any phase or stage of development, the development's cumulative adequate housing need is projected to exceed 5 percent of the applicable Development of Regional Impact residential threshold for the affected local government, or 50 units, whichever is larger.<sup>68</sup>*

(See *Addendum 7-2* for a complete explanation of this process)

A Development of Regional Impact is defined as “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.”<sup>67</sup> Rule 28-24, F.A.C., establishes thresholds that are used to determine whether a proposed development is a Development of Regional Impact. If a proposed development is a Development of Regional Impact, then the applicable Regional Planning Council will conduct a pre-application conference with the applicant and other governmental, review agencies. The purpose of this meeting is to establish the methodologies that the applicant will use to identify and assess any potential regional impacts created by the Development of Regional Impact.

The Adequate Housing Uniform Rule (Rule 9J-2.048, F.S.), outlines the standards for evaluating and, where applicable, mitigating impacts to the affordable housing stock (See *Addendum 7-1* for Rule 9J-2.048, F.S. in its entirety). In April, 1996, with a revision in June, 1999, the Department approved the use of the East Central Florida Regional Planning Council’s (ECFPRC) housing methodology as a model that applicants of a Development of Regional Impact could use to assess their affordable housing impacts. The ECFRPC methodology is considered a safe harbor approach. This means use by an applicant and the applicable Regional Planning Council is not subject to challenge. The Adequate Housing Rule does not preclude the use of other approaches for determining a Development of Regional Impact’s affordable housing impact.

In summary, the model asks the applicant to estimate the number of employees that will work within the Development of Regional Impact as well as their wages. A formula is used to determine the monthly rent or mortgage that employees - grouped in salary increments of \$2,500 - will be able to afford. Data showing the existing housing stock, within a 20 minute drive time or ten mile radius, whichever is greater, is then examined.



The Adequate Housing Uniform Rule (Rule 9J-2.048, F.S.) and the East Central Florida Regional Planning Council's housing methodology have come under scrutiny by both the regulated community and regulators as not being effective tools for determining impacts to the affordable housing stock. Some of the concerns expressed include:

- The average commute distance and times have changed. While ten miles/20 minutes (which is the standard used to determine a Development of Regional Impact's Housing Supply Area) were the averages in 1990, the numbers are now 12.1 miles<sup>69</sup> and 24 minutes.<sup>70</sup>
- The supply side calculations appear to be inconsistent with affordable housing data, such as the Shimberg Center's Affordable Housing Needs Assessment, which indicates there are affordable housing deficits throughout Florida.
- The ability to estimate the number of substandard units within the Housing Supply Area is constrained by inadequate data.
- The Adequate Housing Rule and East Central Florida Regional Planning Council's model ask the applicant to estimate housing demand based on the number of employees at build-out, which can be 20 years in the future while determining the supply for those employees based on the units that exist at the time of application.
- There is not a uniform understanding of what constitutes adequate mitigation.

Since the model has been in place, less than 20 Developments of Regional Impact have shown an impact on the affordable housing stock. In addition, the East Central Florida Regional Planning Council is considering no longer using the model to evaluate Developments of Regional Impact in their area. *Table 3* offers a summary of the processes the eleven Regional Planning Councils are using to review the potential affordable housing impacts of Developments of Regional Impact. The table indicates that three other Regional Planning Councils are using processes other than the East Central Florida Regional Planning Council's housing methodology.

**Table 3- Affordable Housing Review Processes by Regional Planning Council**

Regional Planning Council (RPC)	Counties Served	Affordable Housing Review Process
West Florida RPC	Escambia, Santa Rosa, Okaloosa, Walton, Bay, Washington, and Holmes Counties and their municipalities	East Central Florida Regional Planning Council's housing methodology
Apalachee RPC	Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, and Wakulla Counties and their 28 municipalities	East Central Florida Regional Planning Council's housing methodology
North Central Florida RPC	Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor, and Union Counties and their municipalities	East Central Florida Regional Planning Council's housing methodology
Northeast Florida RPC	Baker, Clay, Duval, Flagler, Putnam, Nassau and St. Johns - and their 27 municipalities	Five percent of housing must be set-aside for a period of 15 years as affordable.
Withlacoochee RPC	Citrus, Hernando, Levy, and Sumter Counties and their municipalities	East Central Florida Regional Planning Council's housing methodology
East Central Florida RPC	Brevard, Lake, Volusia, Seminole, Orange and Osceola Counties and their municipalities	East Central Florida Regional Planning Council's housing methodology; however, the Council is deliberating using another process.
Central Florida RPC	DeSoto, Hardee, Highlands, Okeechobee, and Polk Counties and their municipalities	East Central Florida Regional Planning Council's housing methodology
Tampa Bay RPC	Hillsborough, Manatee, Pasco and Pinellas and their 43 municipalities	Ten percent of housing must be set-aside as affordable plus a per square foot assessment for commercial, office, and industrial uses.
Southwest Florida RPC	Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties and their municipalities	Three options: (1) On-site affordable housing for employees of the DRI calculated as being equal to 5 percent of the land area of the DRI and number of associated affordable housing units would be equal to maximum density allowed by the comp plan; (2) Developer can provide an offsite tract of land within 20 minutes/ten miles (for employees of the DRI) with the appropriate number of units based on comp plan; or (3) Provide a financial contribution to the applicable local government.
Treasure Coast RPC	Indian River, Martin, Palm Beach, and St. Lucie Counties and their	East Central Florida Regional Planning Council's housing methodology
South Florida RPC	Broward, Miami-Dade, and Monroe Counties and their municipalities	Housing Trust payment in lieu of analysis or East Central Florida Regional Planning Council's housing methodology.

Additional research regarding how to identify and mitigate the potential affordable housing impacts of Developments of Regional Impact revealed that the Martha's Vineyard Commission and Cape Cod Commission (Massachusetts) are employing techniques that could be considered. While the two approaches differ from a technical standpoint, the basis for analysis of each technique has clear parallels.

In addition to enacting Developments of Regional Impact policy that establishes a fee schedule for both residential and non-residential uses, the Martha's Vineyard Commission also conducted a nexus study that was charged with determining whether there was a relationship between non-residential development and an increase in the need for low- to moderate-income housing. Out of the nexus study a series of recommendations was developed and a set of applicant requirements were mandated of all future Development of Regional Impact applicants. These requirements consist of employment indicators including, but not limited to: employment density, job classification, average annual wages, and housing affordability gaps. Similarly, the Cape Cod Commission established an application process for Development of Regional Impact applicants that requires workforce, wage, and industry and job classification data. Additionally, the process includes specific direction for identifying employment density and average annual wages as well as guidance for determining the impact of the development on affordable housing and mitigation provisions. (See *Addendum 7-3* for a sample of Development of Regional Impact application requirements from both the Martha's Vineyard Commission and Cap Cod Commission).

**Issue 11:** The Adequate Housing Rule and the East Central Florida Regional Planning Council's housing methodology are deficient and do not establish a universal agreement regarding all steps in the process for estimating supply and demand factors. Several Regional Planning Council Boards have taken action to use alternative processes, such as working with the applicant at the pre-application conference phase to establish an agreement that a certain percentage of residential units will be reserved for low- to moderate-income households, built off-site, and/or payments will be made to a local housing trust fund or similar source to be used to address affordable housing. It should be noted that Rule 9J-2.048(3)(d), F.A.C., states:

*...if agreement was reached at the DRI preapplication conference regarding adequate housing impact analyses assumptions and methodologies to be used in an ADA, then reviewing agencies may not subsequently object to these assumptions and methodologies, consistent with the provisions of paragraph 9J-2.021(1)(h), Florida Administrative Code.*

**Alternative Approach 11.1:** Legislation could be considered that would require all communities to develop and adopt inclusionary zoning and linkage program ordinances. A *de minimis* option could be included for communities where residential and/or non-residential growth rates are below a determined threshold. This requirement could allow Developments of Regional Impact and sub-threshold developments to address affordable housing in a consistent and equitable manner. Also, this requirement would eliminate the use of the East Central Florida Regional Planning Council's housing methodology. It is critical that the operational steps below be implemented before any legislation is sought. [It should be noted that this is also presented as ***Alternative Approach 8.1***]

**Pro(s):**

- See ***Alternative Approach 8.1***

**Con(s):**

- See ***Alternative Approach 8.1***

**Operational Steps:**

- See ***Alternative Approach 8.1***

**Alternative Approach 11.2:** Rule 9J-2.048, F.A.C., could be revised to indicate that dedicated set asides and non-residential linkage fees for affordable housing will be considered “safe harbor” techniques that will be used to address mitigation of regional, affordable housing impacts. “Safe harbor” refers to a process authorized and not subject to appeal if it is used to prepare conditions of the Development of Regional Impact’s Development Order. Also, this requirement would eliminate the use of the East Central Florida Regional Planning Council’s housing methodology.

**Pro(s):**

- Input from the Technical Advisory Team indicates there are developers that would prefer making a contribution to affordable housing in lieu of doing an analysis for process sake.
- Additional discussions are necessary to build consensus on the level and forms of contribution.
- This requirement could aid the creation of mixed-income communities.
- This requirement could produce additional sources for the provision of affordable housing units.

**Con(s):**

- The Alternative would allow off-site construction, which should be an option for non-residential developments. The use of the off-site option can limit a community's ability to achieve mixed-income communities. Increased incentives for on-site inclusion of affordable housing should be considered.
- Since addressing the needs of the extremely-low to low-income populations is a major challenge, there may not be support from the development community for requirements that charge them with this responsibility. It should be noted that a counter-position is the extremely-low to low-income populations are part of the workforce and, therefore, their needs should be addressed by both the public and private sectors.
- The use of dedicated set-asides and non-residential linkage fees could be considered to create an additional expense for new development and could be viewed as a disincentive to economic development.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- A rebuttable presumption that affordable housing deficits exist in all regions of the state could be established. A developer may use an approved data source, such as the Shimberg Center to rebut the presumption that a deficit in affordable housing units exists.
- Each Regional Planning Council (with state guidance) will determine a percentage set-aside of affordable housing units for Developments of Regional Impact as well as a linkage fee for non-residential land uses.
- The affordable housing units can be built on-site, off-site, or the developer may make a cash contribution or land donation to the applicable, local housing trust fund.
- Determine what constitutes adequate mitigation. The areas to be addressed are:
  - ✓ What segment(s) of the affordable housing population will be served? Should the mitigation be spread proportionally among the extremely-low to moderate-income groups based on their respective deficits within a region, or should it address the workforce population?

- ✓ Should mitigation either equal the purchasing power for the targeted income population homebuyer, the gap between purchasing (and rental) power and median sales (rents) in the community, or the amount of subsidy the public contributes for homebuyers and renters in the community? How do these figures compare to the cost of on-site or off-site construction? In addition, the amount of time that rental assistance is to be provided and long-term preservation of affordable units should be addressed.
- ✓ How to allow developers to assess and address costs, including mitigation. One option is to use financial calculations done on a 20 years basis with entitlement costs included.
- Explore which programs could be used to help fund nexus studies.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.3:** Rule 9J-2.048, F.A.C., could be revised to include dedicated set-asides and non-residential linkage fees for affordable housing as “safe harbor”, techniques that can be used to address mitigation of regional, affordable housing impacts. This requirement would allow the applicant the option to use the East Central Florida Regional Planning Council’s housing methodology.

**Pro(s):**

- The use of dedicated set-asides and non-residential linkage fees could aid the creation of mixed-income communities.
- The use of dedicated set-asides and non-residential linkage fees could produce additional sources for the provision of affordable housing units.
- The designation of dedicated set-asides and non-residential linkage fees as safe harbor techniques would provide Development of Regional Impact applicants certainty that their Development Orders would not be appealed if they volunteered at the pre-application conference to use dedicated set asides and non-residential linkage fees.

**Con(s):**

- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The use of dedicated set-asides and non-residential linkage fees could be considered to create an additional expense for new development and could be viewed as a disincentive to economic development.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- A rebuttable presumption that affordable housing deficits exist in all regions of the state could be established. A developer may use an approved data source, such as the Shimberg Center to rebut the presumption that a deficit in affordable housing units exists.
- Each Regional Planning Council (with state guidance) will determine a percentage set-aside of affordable housing units for Developments of Regional Impact as well as a linkage fee for non-residential land uses.
- The affordable housing units can be built on-site, off-site, or the developer may make a cash contribution or land donation to the applicable, local housing trust fund.
- Determine what constitutes adequate mitigation. The areas to be addressed are:
  - ✓ What segment(s) of the affordable housing population will be served? Should the mitigation be spread proportionally among the extremely-low to moderate-income groups based on their respective deficits within a region or, should it address the workforce population?
  - ✓ Should mitigation either equal the purchasing power for the targeted income population homebuyer, the gap between purchasing (and rental) power and median sales (rents) in the community, or the amount of subsidy the public contributes for homebuyers and renters in the community? How do these figures compare to the cost of on-site or off-site construction? In addition, the amount of time that rental assistance is to be provided and the long-term preservation of affordable units should be addressed.
  - ✓ How to allow developers to assess and address costs, including mitigation. One option is to use financial calculations done on a 20 years basis with entitlement costs included.

- Explore which programs could be used to help fund nexus studies.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.4:** The Martha's Vineyard and Cape Cod Commissions' Guidelines could be used as templates for the use of regional nexus studies as the basis for determining the potential affordable housing impacts of Developments of Regional Impact. This requirement would also eliminate the use of the East Central Florida Regional Planning Council's housing methodology.

**Pro(s):**

- The use of dedicated set-asides and non-residential linkage fees could aid the creation of mixed-income communities.
- The use of dedicated set-asides and non-residential linkage fees could produce additional sources for the provision of affordable housing units.

**Con(s):**

- The use of dedicated set-asides and non-residential linkage fees could be considered to create an additional expense for new development and could be viewed as a disincentive to economic development.

**Alternative Approach 11.5:** Rule 9J-2, F.A.C., could be amended to credit affordable housing units provided on-site, by the developer, toward required mitigation activities for regional transportation impacts, in addition to mitigation of regional, affordable housing impacts.

**Pro(s):**

- Transportation exactions are one of the largest potential costs for a Development of Regional Impact. This change could ameliorate transportation costs while achieving the public benefits of providing affordable housing and creating mixed-income communities.

**Con(s):**

- The use of affordable housing credits in lieu of physical improvements to the transportation network, the Transportation Demand Management, or other traffic reduction techniques could lead to additional congestion. However, the congestion issue could be addressed by coordinating the use of this option with Transportation Concurrency Management Areas (as authorized by 9J-5.005(5), F.A.C.) and Transportation Concurrency Exception Areas (as authorized by 9J-5.005(6), F.A.C.).

**Operational Steps:**

- The Departments of Community Affairs and Transportation could coordinate to establish standards for transportation exaction credits in exchange for the provision of affordable housing. The preservation of affordable units should be included in the establishment of such standards.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.6:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include waiver of the requirement for an affordable housing analysis in locations where the unemployment rate exceeds the state average and/or in areas designated as economically distressed.

**Pro(s):**

- The intent of the change is to facilitate the creation of employment opportunities in economically distressed areas.

**Con(s):**

- While enhancing the economic status of residents is a laudable and a desired outcome, this change appears to presume additional affordable housing will not be needed by the target populations.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.7:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include utilization of age-restricted supply when it can be demonstrated that some employees are anticipated to be seniors.

**Pro(s):**

- The intent is to avoid miscalculating affordable housing demand.

**Con(s):**

- The suggested change appears to presume all senior Floridians who may be employed in a Development of Regional Impact would not create additional demands for affordable housing. In lieu of a study that demonstrates this population's demand for affordable housing, this change may lead to underestimating supply.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.8:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include delineating the Housing Supply Area based on best available data for average commute times, where public transit is available, or where unique geographic characteristics exist.

**Pro(s):**

- The proposed change would provide flexibility in the Developments of Regional Impact review process based on conditions specific to an area of the state.

**Con(s)**

- The use of this option could remove uniform standards within a region for determining potential affordable housing impacts. Additionally, pre-application conference negotiations could become protracted if there are not standards to determine when the Housing Supply Area can be adjusted.

- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.9:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include eliminating the requirement for identification of sub-standard housing units unless data is available through the local government or when the Comprehensive Plan identifies areas for rehabilitation or redevelopment.

**Pro(s):**

- This change could resolve how to address the issue of identifying substandard units when the local government does not have accurate data.
- The proposed changes may address concerns identified by the development industry.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems of the East Central Florida Regional Planning Council's housing methodology. Additionally, it may exacerbate the issue by including substandard units into the supply calculations.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.10:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include allowing affordable housing units that are planned and approved but not built to be included in the affordable housing supply (provided that they will be constructed within two years) with verification of construction and price/rent in the biennial report. Selling price or rental rates can initially be estimated based on comparable sales/rentals in the area or based on the actual planned sales price or rental rates. This would be particularly important when an actual affordable housing project is planned nearby. Additionally, units identified as the available supply should be assigned and credited to avoid duplicate counting by multiple Developments of Regional Impact.

**Pro(s):**

- The proposed changes may address concerns identified by the development industry by allowing demand and supply calculations to be linked better.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Selecting this option would necessitate a monitoring condition that is linked to the phasing of demand and also examines actual employment data (including number of jobs and wages paid) in relation to the amount of affordable housing in proximity to the development.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

***Alternative Approach 11.11:*** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. The following modifications could clarify how mitigation of potential impacts may be addressed:

- Provide applicant the option of: (1) analysis and/or mitigation for total project up front; (2) analysis and/or mitigation for individual phases; or (3) phased mitigation within phases.
- Revise methodology and Rule to allow: (1) mitigation within or outside the Housing Supply Area; (2) payment to supplement local affordable housing programs and/or affordable housing project on-site or off-site; or (3) other mitigation as may be approved by the applicable local government and the Department.

[It should be noted that the issue of how to define and address affordable housing mitigation also arises in *Alternative Approaches 8.1, 11.2*]

***Pro(s):***

- The use of this option could expand the options for mitigating potential affordable housing impacts.

***Con(s):***

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

***Operational Steps:***

- Prior to deciding on how a development will mitigate affordable housing impacts, policy direction is needed regarding what are the essential, desired outcomes (i.e., mixed income/mixed use, proximity to employment centers, and transportation options).
- The areas to be addressed in order to determine what constitutes adequate mitigation are:

- ✓ What segment(s) of the affordable housing population will be served? Should the mitigation be spread proportionally among the extremely-low to moderate-income groups based on their respective deficits within a region, or should it address the workforce population?
- ✓ Should mitigation either equal the purchasing power for the targeted income population homebuyer, the gap between purchasing (and rental) power and median sales (rents) in the community, or the amount of subsidy the public contributes for homebuyers and renters in the community? How do these figures compare to the cost of on-site or off-site construction? In addition, the amount of time that rental assistance is to be provided and the long-term preservation of affordable units should be addressed.
- How to allow developers to assess and address costs, including mitigation. One option is to use financial calculations done on a 20 years basis with entitlement costs included.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.12:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include revising the methodology to incorporate incentives for providing affordable housing on-site. [It should be noted that this issue is also addressed in **Alternative Approach 11.5.**]

**Pro(s):**

- Incentives have been shown to aid governmental agencies to achieve their identified, desired outcomes.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Credit for on-site affordable housing could be given on a sliding scale providing for higher credit for low-income and the highest credit for very-low-income units.
- The following is an example of a sliding scale that could provide incentives for development of on-site housing according to Developments of Regional Impact developers:
  - ✓ One-and-a-half units credit for each moderate-income unit on-site;
  - ✓ Five units for each low-income unit on-site;
  - ✓ Eight units credit for each very-low-income unit on-site.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.13:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include allowing Transportation Demand Management (TDM) techniques that address:

- Home-based workers;
- Live-work housing; and
- Alternative modes of transportation for the home to work trips.

**Pro(s):**

- Transportation exactions are one of the largest potential costs for a Development of Regional Impact. This change could ameliorate transportation costs while achieving the public benefits of providing affordable housing and creating mixed-income communities.

**Con(s):**

- The use of affordable housing credits in lieu of physical improvements to the transportation network, the Transportation Demand Management, or other traffic reduction techniques could lead to additional congestion. However, the congestion issue could be addressed by coordinating the use of this option with Transportation Concurrency Management Areas (as authorized by 9J-5.005(5), F.A.C.) and Transportation Concurrency Exception Areas (as authorized by 9J-5.005(6), F.A.C.).
- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.

- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- The Departments of Community Affairs and Transportation could coordinate to establish standards for transportation exaction credits in exchange for the provision of affordable housing. The preservation of affordable units should be included in the establishment of such standards.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.14:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include eliminating the requirement to consider "Arms Length Transaction" in estimating supply where no reasonable or accurate data is available.

**Pro(s):**

- The change would provide applicants the opportunity to provide an enhanced understanding of the development's demand for affordable housing.

**Con(s):**

- In lieu of a study that is able to establish and distinguish the number of persons who will not need access to additional affordable housing from those that will need access, this change would cause demand to be underestimated.
- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.15:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include allowing accessory dwelling units to be approved/permited, while not being counted as separate housing units.

**Pro(s):**

- Accessory dwelling units can be a source for additional affordable housing and they promote the development of mixed-income communities.

**Con(s):**

- No Cons were identified relative to accessory dwelling units; however,
- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- The Department could provide guidance about how communities may address the potential concurrency and infrastructure impacts of accessory dwelling units. The technical assistance, training, and education programs could address: (1) calculating density when accessory dwelling units are permitted, (2) calculating potential impact fees, (3) determining whether concurrency exemptions are permitted for accessory dwelling units.
- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.16:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include allowing applications to assume that not all employees will be new to the area and, therefore, in need of affordable housing.

**Pro(s):**

- The change would provide applicants the opportunity to provide an enhanced understanding of the development's demand for affordable housing.

**Con(s):**

- In lieu of a study that is able to establish and distinguish the number of persons who will not need access to additional affordable housing from those that will need access, this change would cause demand to be underestimated.
- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.17:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include utilizing occupancy/vacancy rates for non-residential uses consistent with those used in the transportation model.

**Pro(s):**

- Transportation exactions are one of the largest potential costs for a Development of Regional Impact. This change could ameliorate transportation costs while achieving the public benefits of providing affordable housing and creating mixed-income communities.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.



**Alternative Approach 11.18:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include eliminating part-time/student employees from the demand equation as it relates to heads of households.

**Pro(s):**

- The intent is to avoid miscalculating affordable housing demand.

**Con(s):**

- The suggested change appears to presume all part-time/student employees that may be employed in a Development of Regional Impact would not create additional demands for affordable housing. In lieu of a study that demonstrates this population's demand for affordable housing, this change may lead to underestimating supply.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.19:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include utilizing Institute of Transportation Engineers' (ITE) data as the source for employee generation ratios consistent with ratios utilized in the applicable transportation model.

**Pro(s):**

- Transportation exactions are one of the largest potential costs for a Development of Regional Impact. This change could ameliorate transportation costs while achieving the public benefits of providing affordable housing and creating mixed-income communities.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

**Alternative Approach 11.20:** The East Central Florida Regional Planning Council's housing methodology could be revised to allow and encourage, at the pre-application conference, the consideration of changes to the Application for Development Approval. These changes may include revising The Methodology, Appendix D: Spreadsheet Models, 5. (See *Addendum 7-2*, page 12) from the "come close" provision to specify "within 10%".

**Pro(s):**

- The intent is to avoid miscalculating affordable housing demand.

**Con(s):**

- The proposed changes do not appear to reconcile the supply side problems between the East Central Florida Regional Planning Council's housing methodology and the Shimberg Center's Affordable Housing Needs Assessment.
- The use of the East Central Florida Regional Planning Council's housing methodology would be retained, although it is considered to be inadequate. Additionally, there is not consensus regarding whether the model can be improved and specific changes that could be made.
- The requirement would retain the bifurcated system, where the potential affordable housing impacts of Developments of Regional Impact are assessed and mitigated differently than sub-threshold developments.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9J-2, F.A.C.
- Revise Rule 9J-2, F.A.C., as necessary.

***If 1 in every 10 of America's owner-occupied single-family homes built before 1975 were to devote space to an accessory unit, 3.8 million rental units would be generated, increasing the supply of rental housing by about 10 percent.***

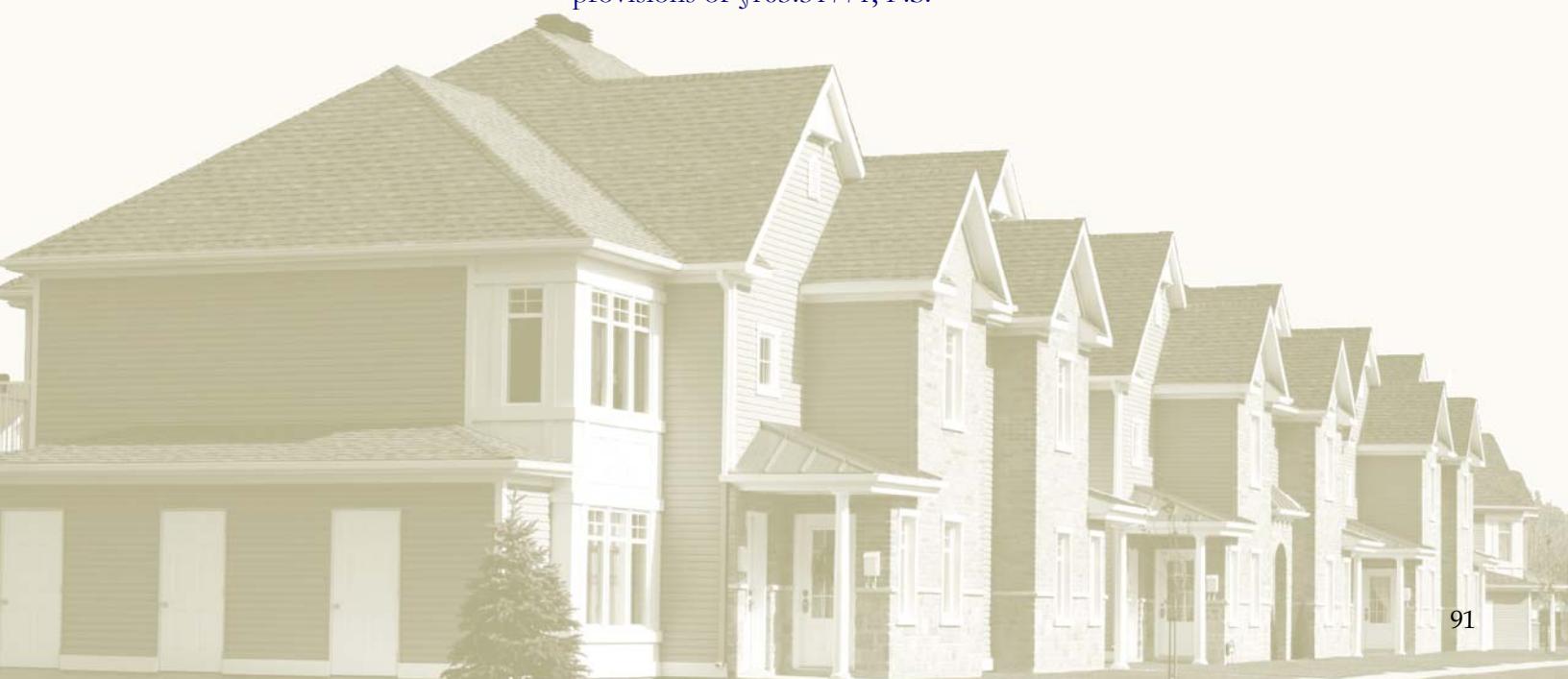
Municipal Research and Services Center of Washington

In 2004, the Florida Legislature revised the Growth Management Act of 1985 to include a section (§163.31771, F.S.) to promote the use of accessory dwelling units as an affordable, rental option for very-low-, low-, and moderate-income residents. Section 163.31771, F.S., was amended in 2006 to include extremely-low-income residents.

Section 163.31771(2)(a), F.S., defines an accessory dwelling unit as “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.” Accessory dwelling units are also known as accessory apartments, garage apartments, granny flats, and mother-in-law flats.

The Legislature envisioned that local governments would adopt ordinances authorizing the use of accessory dwelling units where rental rates are limited. Ordinances adopted pursuant to §163.31771, F.S., would require the building permit application for an accessory dwelling unit to be accompanied by an affidavit from the applicant attesting that the unit will be rented at a rate affordable to the targeted populations. Additionally, accessory dwelling units allowed by an ordinance adopted pursuant to §163.31771, F.S., would apply toward satisfying the affordable housing component of the Housing Element in the local government's Comprehensive Plan under §163.3177(6)(f), F.S.

The Department's “2007 Accessory Dwelling Units Report to the Florida Legislature” (See *Addendum 8-1* for the complete report) evaluates the effectiveness of using accessory dwelling units to address a local government's shortage of affordable housing and reports the number of ordinances adopted by local governments as well as the number of accessory dwelling units that were created under the provisions of §163.31771, F.S.



To evaluate the effectiveness of the implementation of the statute and using accessory dwelling units to address a local government's shortage of affordable housing, the Department conducted an online survey, online research, and telephone interviews. In addition, the Department examined how accessory dwelling units have been used by communities in other states.

The Department's research encompassed 290 local governments, or 61% of all counties and municipalities in the state. These communities are home to 75% of the state's population. They also are the urban areas where the legislative findings indicate "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."

The Department's compiled data can be summarized into four categories that detail how effectively local governments have implemented ordinances pursuant to §163.31771, F.S. The categories are:

1. Accessory dwelling units are authorized and further the aims of §163.31771, F.S. (i.e., the governing ordinance contains provisions to limit accessory dwelling unit rental rates so that they will be affordable for extremely-low to moderate-income persons);
2. Accessory dwelling units are authorized but do not further the aims of §163.31771, F.S. (i.e., the governing ordinance does not contain provisions to limit accessory dwelling unit rental rates so that they will be affordable for extremely-low to moderate-income persons);
3. Accessory dwelling units are authorized but are not available for rental (i.e., accessory dwelling units are authorized for residential use, but their use is limited to a "guesthouse" or for family members or employees of the primary homeowner); and
4. Accessory dwelling units are not authorized or referenced as an allowable or conditional use in the zoning code.

The Florida Legislature enacted §163.31771, F.S., so that accessory dwelling units could be used in conjunction with rental rate limitations that would make the units affordable for extremely-low to moderate- income persons, thereby addressing deficits in the stock of affordable, rental housing. However, the Department's research indicates that only the City of Key West has adopted an ordinance that contains provisions to limit accessory dwelling unit rental rates for the targeted populations.

In addition, the Department determined:

- There are 43 communities where accessory dwelling units are authorized, but the governing ordinance does not further the aims of §163.31771, F.S. (i.e., there are no provisions that limit accessory dwelling unit rentals to extremely-low- to moderate-income persons).
- There are 109 communities where accessory dwelling units are authorized, but are not available for rental.
- There are 131 communities that do not authorize or reference accessory dwelling units as an allowable or conditional use in the zoning code.
- The codes vary regarding whether accessory dwelling units are permitted versus conditional uses. Conditional use zoning is a technique that can afford a community the flexibility to assess a development's design and location as a means to limit potential adverse impacts to the permitted (or use of right) activities, but because developments are reviewed on a case-by-case basis the process may not provide applicants as much certainty as a permitted use zoning process. It should be noted that zoning codes may vary in order to reflect the needs and desired outcomes of the particular community.
- The codes vary also with respect to how the accessory dwelling unit may be used. In some communities, rental of the accessory dwelling unit is prohibited or occupancy is limited to family members or employees of the primary homeowner. Thirteen communities allow accessory dwelling units, but restrict them from being used as rental units.

The Department also conducted an online survey of local government planning and housing officials, private sector interests, and housing advocates. The survey received 326 responses. The data indicate more than 56% of public sector officials responded favorably about currently providing accessory dwelling units and supporting accessory dwelling units in the future. A higher percentage of the private sector (64%) currently support and may support accessory dwelling units in the future.

The Department also conducted research to determine the number of accessory dwelling units that were created under the provisions of §163.31771, F.S. The Department received 86 responses to its survey questions that asked "how many accessory dwelling units have been created since the ordinance was adopted?", and "how many accessory dwelling units have been constructed since the ordinance was adopted?". Twelve governments responded. Fifty-five accessory dwelling units have been approved and all of these have been subsequently constructed.



**Issue 12:** Accessory dwelling units have been identified as a potential tool for the provision of affordable housing. The use of accessory units may be an inexpensive method for adding to the affordable housing stock. While the intent of §163.31771, F.S., is to encourage local governments to use accessory units for such reasons, its enforcement guidelines have been inadequately developed. The result is that very few local governments have adopted an accessory dwelling unit ordinance and furthermore, those governments that do permit accessory dwelling units in single-family districts, do not follow the requirements set forth in §163.31771, F.S. The effectiveness of accessory dwelling units as a tool for affordable housing, in the context of §163.31771, F.S., therefore, relies on the enforcement and monitoring process at the local government level (as the language is written, there is nothing to enforce at the state level).

**Alternative Approach 12.1:** The language in §163.31771, F.S., should be modified to be more specific and enforceable in its requirements of local governments to allow accessory dwelling units in single-family districts.

**Pro(s):**

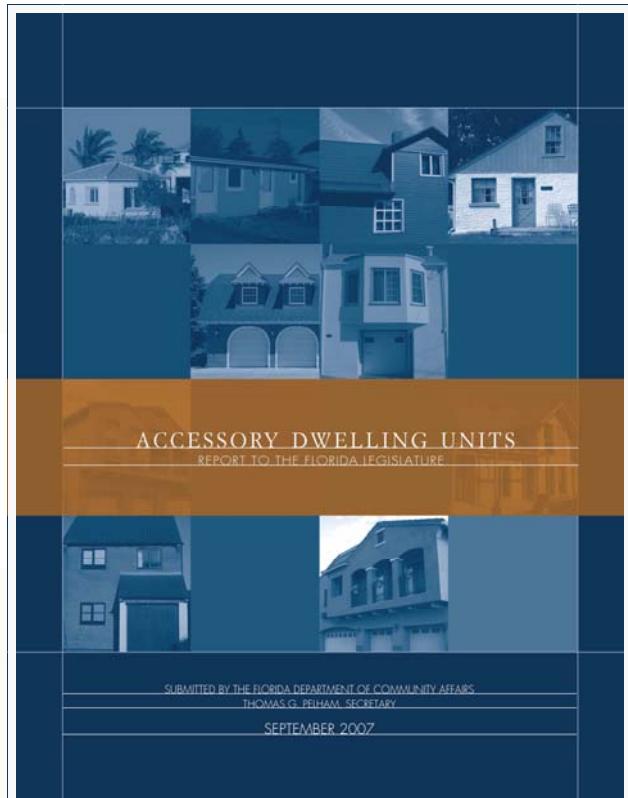
- Accessory dwelling units can be a source for additional affordable housing and they promote the development of mixed-income communities.

**Con(s):**

- No Cons were identified..

**Operational Steps:**

- The Department could provide guidance about how communities may address the potential concurrency and infrastructure impacts of accessory dwelling units. The technical assistance, training, and education programs could address: (1) calculating density when accessory dwelling units are permitted, (2) calculating potential impact fees, and (3) determining whether concurrency exemptions are permitted for accessory dwelling units.
- The Florida Legislature and the Department could review §163.31771, F.S., to determine if said language is consistent with §125.013, F.S., which establishes certain prohibitions regarding the use of rent control in Florida.



**Alternative Approach 12.2:** Legislation could be considered to modify Chapter 163, Part II, F.S., to require local governments to authorize accessory dwelling units in at least one residential land use category.

**Pro(s):**

- Accessory dwelling units can be a source for additional affordable housing and they promote the development of mixed-income communities.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The Department could provide guidance about how communities may address the potential concurrency and infrastructure impacts of accessory dwelling units. The technical assistance, training, and education programs could address: (1) calculating density when accessory dwelling units are permitted, (2) calculating potential impact fees, and (3) determining whether concurrency exemptions are permitted for accessory dwelling units.

**Alternative Approach 12.3:** Technical assistance, training, and education programs could be offered to local governments in their development of accessory dwelling unit ordinances.

**Pro(s):**

- Accessory dwelling units can be a source for additional affordable housing and they promote the development of mixed-income communities

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The content of the training could be flexible enough to meet the needs of individual communities but should focus on three general areas: level of service and concurrency, density tabulations, and impact fee determinations.

*"Soaring housing costs are fueling New England's youth exodus and its ability to attract new workers – white or blue collar."*

Neal Pierce and  
Curtis Johnson  
Journalists

"The Lack of Affordable Housing in New England: How Big a Problem? Why Is It Growing? What Are We Doing About It?" (New England Study) is a study prepared for the New England Public Policy Center.<sup>71</sup> It offers a region-wide, comprehensive analysis of the housing affordability problem in New England. The authors focus on differences in housing affordability across three groups (socioeconomic, demographic, and occupational) within the New England states.<sup>72</sup> Furthermore, the study explores why housing in parts of New England has become so unaffordable. Finally, there is a discussion about region-wide public policies that address such affordability issues.

The New England Study was reviewed to identify 'Best Practices', methods, and design incentives outside the State of Florida. The overall intent of the New England Study is to identify what trends and factors have affected housing costs and the ability of residents to attain affordable housing. While most of the issues identified in the study are similar to trends in Florida, the resources available to address homeownership differ. (See *Addendum 9-1* for a study summary).

The authors pose that expensive housing has a direct, negative effect on attracting and retaining skilled employees. These employees are able to purchase houses for much less outside the New England region and, therefore, are moving outside of the region to find better home values. Consequently, the authors conclude, the region will become prone to a decline in skilled workers and, ultimately, a reduced growth rate.

The authors identify and discuss three major issues relating to housing affordability in the New England region. They are:

- Changes in New England's housing market over the past decade;
- A quantitative analysis, using affordability indicators, of the scope of the affordable housing deficit in the New England region; and
- An examination and analysis of the factors that have affected housing affordability.

The authors then identified the following findings regarding the housing market in the New England region:

- Owner-occupied housing is often not affordable, particularly in southern New England;
- Rental housing is more expensive when compared to the nation as a whole;
- A lack of affordable owner-occupied housing is not only a problem for very-low-income residents, but also middle-income residents;
- Young professionals are able to afford housing, but not as easily as they used to be able to, and not as easily as in rival metropolitan areas;
- Very-low-income residents are being “squeezed” by declining household incomes and rising house prices; and
- There are fewer rental- and owner-occupied units available for the very-poor because higher income residents are forced to move down to more modest housing arrangements.

The authors summarize efforts that are being undertaken to combat the housing affordability problem in the New England area. These efforts can be grouped into two approaches:

- (1) increasing the income of households so that they can affordably rent or own (demand side), or
- (2) increasing the production of affordable housing units (supply side). The authors argue that a supply side approach would be more critical due to the slow housing start growth in the area. Finally, the Study highlights several policies in southern New England that either reduce the local government's ability to limit affordable housing production or reduce their ability to incentive such restraints.

The New England Study was examined to determine if the issues and solutions identified may provide options to be considered within the state of Florida. The issues affecting the provision of affordable housing in the New England region mirror the factor affecting Florida's affordable housing stock. Additionally, the two categories of solutions have merit in Florida.

The Department continues to play a major role in assisting communities to provide safe and affordable housing as well as providing opportunities for communities to enhance their economic development opportunities. One of the major resources available to the Department is its Small Cities Community Development Block Grant Program (CDBG). The Small Cities Community Development Block Grant Program, along with the Low-Income Home Energy Assistance and the Weatherization Assistance Programs, have been instrumental in the rehabilitation of thousands of homes and job creation.

**Issue 13:** The Florida Small Cities Community Development Block Grant Program provides, on a competitive application basis, funding to non-entitlement cities or cities that opt out of an urban entitlement program, with a population less than 50,000 and counties having a population less than 200,000. One of the eligible activities is rehabilitation and preservation of housing. While maintaining the viability of their existing affordable housing stock is one issue facing local governments, some communities would like to increase opportunities to expand their affordable housing stock. At present, the administrative rule governing the Florida Small Cities Community Development Block Grant Program (Rule 9B-43, F.A.C.) does not allow funds to be used to produce new affordable housing.

To assist in this effort, the Community Development Block Grant Program could explore opportunities for funds to be used for new construction. While many states have interpreted Section 24 CFR 570.207(b)(3) to represent an absolute prohibition against the use of Community Development Block Grant funds for new construction, communities such as Spooner, Wisconsin have worked successfully with the United States Department of Housing and Urban Development (HUD) to fund new affordable housing developments.

According to the Council of State Community Development Agencies (COSCDA), the City of Spooner, Wisconsin will use Community Development Block Grant funds to acquire the land, install water and sewer (on publicly owned land), and complete site preparation (which includes streets, sidewalks, and curbs and gutters). The lots will be subdivided and sold (with deferred loans) to low-income persons who have secured, or are able to secure mortgage financing for their new homes.

A variation on this concept is to explore how Community Development Block Grant funds may be used to acquire property to establish a community land trust. According to the Florida Community Land Trust Institute, a community land trust is a vehicle of separating land from building (house) for the purpose of transferring title to the house without selling the land. It also denotes the nonprofit organization that holds title to the land and manages the ground leases on community land trust properties. Homeownership becomes more affordable because the transfer of title to the homeowner does not include a fee interest in the land; the sales price is based on the value of the improvements, without the value of the land. A 501(c)(3), non profit corporation provides a 99-year ground lease to the homeowner and owns the land.



Another concept for consideration is the use of Community Development Block Grant funds to establish a housing revolving loan fund. This concept would allow initial cash investment to have a large multiplier effect as the repaid funds are continuously lent. For example, the Southern Iowa Council of Governments has been operating such a fund for nearly a decade. The program provides up to \$5,000 in down-payment assistance to first-time homebuyers, defined as persons who have not owned or purchased a home in the last three years at a two percent interest rate for seven years. During its ten years of operation, the program has made 524 loans, of which 409 (roughly 78%) have been paid off. The loans have resulted in the purchase of \$22 million in homes.

A final consideration for the use of Community Development Block Grant funds to assist in the provision of affordable housing is a review of the Community-wide Needs Index and Program Benefit calculations to ensure that housing activities will score as highly as other categories.

**Alternative Approach 13.1:** Rule 9B-43, F.A.C., could be amended to allow the Small Cities Community Development Block Grant Program to be used for the construction of new, affordable housing units.

**Pro(s):**

- The use of Small Cities Community Development Block Grant Program funds for construction of new units could increase the supply of affordable housing.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9B-43, F.A.C. The long-term preservation of affordable housing units could be addressed in the revised Rule.
- Revise Rule 9B-43, F.A.C., as necessary.

**Alternative Approach 13.2:** Rule 9B-43, F.A.C., could be amended to allow the Small Cities Community Development Block Grant Program to be used to acquire property to establish community land trusts.

**Pro(s):**

- The use of Small Cities Community Development Block Grant Program funds to authorize, as an eligible activity, acquiring property for community land trusts could increase the supply of affordable housing.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9B-43, F.A.C.
- Revise Rule 9B-43, F.A.C., as necessary.

**Alternative Approach 13.3:** Rule 9B-43, F.A.C., could be amended to allow the Small Cities Community Development Block Grant Program to be used to establish a housing revolving loan fund that would be used locally for downpayment assistance to first-time homebuyers.

**Pro(s):**

- The use of Small Cities Community Development Block Grant Program funds to allow establishing and operating, as an eligible activity, a housing revolving loan fund could increase the supply of affordable housing.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- Conduct public workshops to receive input regarding potential revisions to Rule 9B-43, F.A.C. The long-term preservation of affordable housing units could be addressed in the revised Rule.
- Revise Rule 9B-43, F.A.C., as necessary.



## XIII

### POTENTIAL REGULATORY BARRIERS TO PROVIDING AFFORDABLE HOUSING

*"Not everything  
that is faced can  
be changed, but  
nothing can be  
changed until it is  
faced."*

James Baldwin  
Author

An online survey was conducted of local government planning and housing officials, private sector interests, and housing advocates. Respondents identified a list of common regulatory barriers to the provision of affordable housing. They are:

- Sidewalk requirements
- Street width requirements
- Setback requirements
- Rehabilitation/reconstruction requirements
- Parking requirements
- Open space requirements
- Minimum lot size requirements
- Building height restrictions
- Fee and dedication requirements
- Administrative processing procedures
- Modular/mobile construction requirements



The land development regulations of twelve local governments representing highly urbanized areas, emerging urbanized areas, and rural communities were reviewed to determine how they addressed the potential barriers listed above. (*See Addendum 10-1* for a listing of regulation summary tables; all applicable codes can be found in *Supporting Documents*, Section 10-1). The selected communities are:

- **Urban Communities** (Hillsborough County, Jacksonville, Orlando, Palm Beach County)
- **Emerging Urban Communities** (Alachua County, Escambia County, Naples, Ocala)
- **Rural Communities** (Bartow, Gadsden County, Hendry County, Lake City)

This review examined the initial intent of the regulation, its efficacy, and known and perceived effects on the provision of affordable housing. Where applicable, the ordinances that do present barriers to affordable housing could be revised, retaining the initial intent but ameliorating the adverse impacts.

The following is a summary of findings from this review. The summaries are organized by the eleven criteria and, where applicable, further broken down by community type.

#### ***Sidewalk Requirements***

The specified width for sidewalks across the four urban communities varies; all four communities require the construction of sidewalks for the provision of safe pedestrian travel. Hillsborough and Palm Beach County have granted their respective affordable housing commissions the ability to modify sidewalk and street requirements to further the aims of providing affordable housing. Jacksonville grants five points towards intensity/density bonuses if the developer provides a sidewalk along a boundary street, while Orlando has adopted an alternative sidewalk design standard for affordable housing developments.

Sidewalks are required by all four emerging urban communities. Variations exist in the minimum width of these sidewalks (i.e., Alachua County expresses their requirements as a minimum and maximum range by street type, while Naples requires a distinct width by zoning district). There are no provisions in any of the four communities for alternative design standards for affordable housing developments.

Sidewalk provisions in the four rural communities are less strict and avoid universal mandates, particularly in Lake City (i.e., “When in the opinion of the Board it is necessary for public safety...”) and Bartow (i.e., “where sidewalk requirements are contingent upon average lot width). Lake City does allow for payments in lieu of required road and street improvements which includes grading, paving, or otherwise improving sidewalks.

**Issue 14:** Communities can reduce their need for sidewalks by decreasing street width. Narrower streets equate to slower traffic, thereby reducing the likelihood of more traffic. With narrower streets, sidewalks can be eliminated and sidewalk functions can be easily transferred to the street.<sup>73</sup> Also, communities can reduce the potential adverse impacts on affordable housing by requiring sidewalks on one side of the street only.<sup>74</sup>

**Alternative Approach 14.1:** A collection of local government ‘Best Practices’ could be assembled and made available for Florida’s communities and developers/builders.

**Pro(s):**

- Technical assistance, training, and education could provide practitioners an enhanced understanding of the techniques and incentives that would address their community-specific affordable housing needs and desired outcomes.

**Con(s):**

- No Cons were identified.

**Operational Steps:**

- The technical assistance, training, and education programs could include workshops, case-by-case responses to specific requests, and online resources.
- Since the Department does not have staff with expertise in the area of affordable housing, it could consider soliciting Requests for Qualifications using a process similar to that used to provide training and outreach related to incorporating Local Mitigation Strategies into the Comprehensive Plan.
- A Central Repository of Information could be developed to include ‘Best Practices’ and the ability to partner communities that have similar issues/needs.
- The technical assistance, training, and education programs could be developed to aid communities that have limited staff.
- The Department could use its training program for the preparation of the revised Capital Improvements Element as a template for technical assistance, training, and education programs regarding preparation of a Housing Element.
- Florida Housing Finance Corporation and The Florida Housing Coalition jointly run the Catalyst Program which primarily consists of technical assistance to local governments and community-based organizations relating to meeting the identified affordable housing needs. The Catalyst Program could be enhanced to provide expertise on land use issues.
- The Local Housing Advisory Committees (and their staff from the local Housing and Planning Departments) could be the primary recipients of technical assistance, training, and education programs. The composition of the Committees may need to be examined to ensure the representatives include persons involved in the land development process.



### ***Street Width Requirements***

Minimum street widths range widely across the four urban communities. For example, Jacksonville spans from a high of 500 feet (rural area road) to a low of 50 feet (local, cul-de-sacs, and loop streets), while Hillsborough County's range is 122 feet (rural minor roads) to a low of 26 feet (multi-use trails). Local streets are most commonly required to be constructed at either 50 or 60 feet. Orlando has an additional set of requirements for cul-de-sacs.

Similarly, emerging urban communities require local residential streets to be between 50 and 60 feet in width. Alachua County expresses these requirements in the form of a minimum and maximum range. Naples requires additional right-of-way provisions for subdivisions that adjoin existing streets that do not meet the minimum street standards.

Bartow, Lake City, and Hendry County similarly require that local streets be constructed between 50 and 60 feet in width. Gadsden County however, sets the minimum paving width for residential streets in subdivisions at 24 feet, as well as capping the maximum driveway width at 18 feet for residential uses. Finally, Gadsden County does allow for variances upon approval by the Public Works Director.

**Issue 15:** The requirements that local governments establish in their land development regulations for street widths can affect development costs and, subsequently, the cost of housing. The Pennsylvania Department of Community and Economic Development made the following findings regarding street widths:

- Streets comprise about half of the improvement costs of the typical single-family detached house;
- Street dimensions directly affect the cost of other improvements, such as utilities, storm water control, curbs and sidewalks;
- Wider streets cost more to maintain and plow, thereby increasing municipal costs, which impact real estate taxes and, therefore, housing costs;
- Wider streets are required in an attempt to solve problems related to parking and special vehicles such as fire trucks, snowplows, and garbage trucks;
- Fire trucks need quick access to the site and can make backing and turnaround movements at leisure after the fire has been extinguished;
- It is costly to design residential streets to accommodate infrequent access by special vehicles.<sup>75</sup>

One of the primary explanations offered for street width requirements of 50 to 60 feet is the need for access by emergency vehicles. The City of Glenwood Springs, Colorado conducted a review of street width designs in conjunction with its fire department. Their test included maneuvering fire trucks through pylons that were placed to simulate street widths. While some modifications were required by the fire department at intersections, the City reduced street width requirements to 24 feet.<sup>76</sup>

**Alternative Approach 15.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***

**Setback Requirements**

Setback requirements vary widely across the four urban communities. This is more than likely due to the differences in the zoning districts and their prescribed land uses. For example, Orlando lists their setback requirements by district (Towncenter, Village Center, and Residential Neighborhood), while Jacksonville expresses these requirements by different standards (i.e., RLD-A, etc.). These differences in zoning districts make comparison across communities difficult. Furthermore, the term “setback” refers to a different set of measurements from one community to another. For example, Jacksonville expresses setbacks as front, side and rear yards, while Palm Beach County defines setbacks as front, side, side street, and rear yards.

The emerging urban communities follow the same trends generally as the urban land development codes. Escambia County, Ocala, and Naples express their requirements by specific residential districts. Alachua County, however, establishes minimum setback levels (in all single-family districts) by lot size. Additionally, Alachua County’s Traditional Neighborhood and Village Center districts have distinct requirements for single-family attached and detached and multi family units. Finally, Ocala has an additional requirement to the setback definition: front, interior side, street side, interior rear, and street rear yards.

Lake City has no stated minimum setback requirements. Bartow and Hendry County express their setback requirements by specific zoning districts, while Gadsden County provides distinct residential requirements which are determined by the property’s location relative to roads. There seems to be little basis for comparison of the rural requirements with that of the urban and emerging urban communities due to the variations in both zoning districts and the definitions of setbacks.

**Issue 16:** Communities use zoning setbacks to accomplish differing outcomes. The Town of Davie, Florida states that: “building setbacks are intended to provide a desirable separation of uses and are dimensioned to be reflective of district intensity and bulk characteristics.” While the City of Chesapeake, Virginia indicates, “for safety reasons, a set back is the minimum required distance between the property line and the building line.”<sup>77</sup> Setbacks are also used to create privacy and protect environmental resources.<sup>78</sup>

While the intent of setbacks can be linked universally to protecting public safety, their implementation can have adverse impacts on the provision of affordable housing. The Pennsylvania Department of Community and Economic Development notes:

- Each foot of front yard setback increases costs for service lines for sewers, water, driveway paving, site clearing, and landscaping;
- A rule of thumb is each foot of setback costs five times as much as each foot added at the rear;
- Rigid side yards can result in little usable space since space at the side of conventional detached homes is seldom used for outdoor activities; it is often shaded, too narrow, or devoid of privacy.<sup>79</sup>

Because the intent and required distances of setbacks varies by community, there is not a uniform solution to addressing setbacks in order to reduce the cost of housing as part of an affordable housing strategy. However, there are examples of ways communities are attempting to address setbacks in the context of affordable housing delivery.

In Pinellas County, Florida setback requirements are reduced for affordable housing developments. The Pinellas County Land Development Code defines affordable housing developments as “owner-occupied housing development in which at least 20% of the units are affordable to households at or below 80% of Area Median Income or rental housing development in which 20% of the units are affordable to households at or below 60% of Area Median Income.”<sup>80</sup> The Code states that: “Setback requirements may be reduced up to 25 percent provided such reductions are not permitted for structures along the periphery of the affordable housing development. Reductions along the periphery or in excess of the 25 percent limitation may be considered by the board of adjustment.”<sup>81</sup>

The City of Orlando, Florida has adopted into Chapter 67 of its Land Development Code alternative standards for low- and very-income developments. The alternative standards authorize the use of zero lot line setbacks. Specifically, the Code states:

*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.*

**Table 4- Setback Requirements: With and Without On-Street Parking****City of Orlando, Florida**

	With On-Street Parking	Without On-Street Parking
Min. Front Yard (primary structure)	5 ft.	5 ft.
Min. Front Yard (garage/carport)	5 ft.	20 ft.
Side Yard	0 or 5 ft.	0 or 5 ft.
Min. Street Side Yard	15 ft.	15 ft.
Min. Rear Yard	5 ft.	5 ft.
Min. Building Separation	10 ft.	10 ft.
Max. Density Min. Open Space	Same as permitted or required by the zoning district, including bonuses.	

*Source: Section 67.604 of the City of Orlando Land Development Code*

**Alternative Approach 16.1:**

- See *Alternative Approach 14.1 (page 103)*

**Pro(s):**

- See *Alternative Approach 14.1*

**Con(s):**

- See *Alternative Approach 14.1*

**Operational Steps:**

- See *Alternative Approach 14.1*



### ***Rehabilitation/Reconstruction Requirements***

Rehabilitation/reconstruction issues are almost entirely addressed in the form of historic preservation or rehabilitation. Very few land development codes make the important distinction between general housing rehabilitation and historic rehabilitation. Consequently, consistent trends are difficult to extract across the twelve communities. There are however, some relevant rehabilitation provisions from a select few communities. Jacksonville grants between one and seven points towards density/intensity bonuses for the rehabilitation of urban core housing. Hendry County allows that only the rehabbed portion of a rehabilitation project meet the Florida Building Code, not the entire affected building. Additionally, several state and federal affordable housing funding programs allow a certain portion to be funneled into construction, rehabilitation, or emergency repair of affordable housing (Gadsden County, Hendry County, Jacksonville, Orlando, and Palm Beach County).

**Issue 17:** In many areas of the country, building rehabilitation/reconstruction as part of an affordable housing strategy has been accomplished under the moniker of “adaptive reuse”. Adaptive reuse is defined as “the act of finding a new use for a building.”<sup>82</sup>

The City of Los Angeles, California has one of the nation’s better known adaptive reuse programs. The intent of the program is to aid the conversion of economically distressed or historically significant commercial building to residential. A few of the hallmarks of the program are a streamlined permitting process, changes in land use ordinances that relaxes parking requirements, and waivers of density restrictions and other zoning requirements.<sup>83</sup> According to the Washington Area Housing Partnership, adaptive reuse projects can facilitate the provision of affordable housing because the costs of development are usually less because infrastructure is available.<sup>84</sup>

Adaptive reuse projects can be encouraged by communities by the application of incentives, applying flexible zoning standards (such as mixed-use zoning or by allowing residences as a permitted or conditional use in appropriate commercial and industrial zones), inventorying potential reuse locations, arranging for possible property transfers of publicly-owned buildings, and providing assistance in obtaining sources of funding (i.e., loans, grants, and rent subsidies).<sup>85</sup> An example of public property transfers and funding assistance is the Iowa Department of Education, which promotes to its School Districts the adaptive reuse of closed schools for affordable housing. The State of Iowa uses its Low-Income Housing Tax Credits for qualified developments.<sup>86</sup>

**Alternative Approach 17.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***

***Parking Space Requirements***

Little variation exists across the twelve communities relative to the number of required parking spaces. Both single-family and multi family units generally require between one and two parking spaces. There are no clear trends related to whether single-family or multi family units are required to provide more parking spaces. For example, Ocala requires one space for single-family and one-and-a-half spaces for multi family, while Gadsden County requires two-and-a-half spaces for single-family and only two for multi family usage. An interview with the Zoning & Building Inspector for Lake City confirmed that there is no required number of parking spaces for the city.

**Issue 18:** According to the Southern California Association of Non-Profit Housing, parking requirements can have the following adverse impacts on affordable housing:

- Increases development costs. Parking requirements drive up the cost of development, resulting in less units of housing; spending more on parking equates to less funds available for providing housing. Some developments end up having more space for cars than for people.
- Reduces the potential for other amenities and uses, wastes land. Parking requirements also mean that less money and land is available for other purposes. Childcare facilities, community rooms, and play areas may all be sacrificed in order to accommodate parking. The possibility for mixed-use, such as ground-floor retail, are also reduced, leaving other community needs unmet in the name of parking.
- Produces less attractive designs. Meeting parking requirements becomes a focal point in the design process and eliminates opportunities to incorporate open space. With less parking to consider, a building can be designed that better reflects a neighborhood's context and needs.<sup>87</sup>

Communities around the country are employing various techniques to address how parking affects the provision of affordable housing. For example, the City of San Diego, California reduces parking requirements by one-quarter of a space per dwelling unit for affordable housing as well as developments approximate to transit.<sup>88</sup> Deed-restricted affordable units in Los Angeles, California are provided a reduction of one-half a space per unit, and additional reductions are available for units within 1,500 feet of a transit line.<sup>89</sup> The Town of Davie, Florida contains language in their Affordable Housing Incentive Plan that indicates:

*Each affordable housing project is reviewed by the Housing and Community Development Director, and based on the target population to be served and the period of affordability, will make a recommendation on the reduction in parking requirements, if warranted.<sup>90</sup>*

**Alternative Approach 18.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***

***Open Space Requirements***

All four urban communities have requirements in their respective land development codes to provide open space. The approaches towards this end vary from one community to another. For example, Jacksonville mandates that all developments with more than 50 units be required to provide 50 square feet of open space for every 1,000 square feet of gross floor area. Hillsborough County expresses this requirement as a minimum percentage of the land use by district. Palm Beach County offers options for meeting these requirements.

Similarly, the emerging urban communities require a certain amount of open space. Alachua County adopted an entire article devoted to spelling out open space requirements (20% on all development plans and plats), while Escambia County expresses the open space requirements within specific zoning districts as a percentage of total parcel area. In addition to a downtown public open space trust fund, Naples generally requires that open space and recreational amenities be provided, as needed, to further the aims of their affordable housing ordinance.

The rural land development codes vary in their level of detail relating to open space requirements. Gadsden County has a minimum standard for providing open space (ten percent of the total area included in the subdivision) as well as a cash in lieu of dedication for non-residential developments. Hendry County also has provisions for open space in their development review criteria for environmentally sensitive lands. Bartow on the other hand, establishes buffer yards as landscaped open space as well as requiring a common open space in all mobile home parks. The level of open space requirements for Bartow is expressed in the form of buffer yard widths. Finally, the Lake City land development code allows the planning and zoning board to reserve particular land for open space, but does not establish universal standards for the provision of open space.

**Issue 19:** The planning precepts of preserving open space and providing affordable housing may appear to be contradictory goals, but communities are successfully achieving both desired outcomes. For instance, the North Carolina Community Development Initiative is promoting the concept of conservation-based affordable housing (CBAH). The goal is to combine traditional open space conservation techniques, such as clustering homes and allowing large swaths of open space to remain for affordable housing developments. The North Carolina Community Development Initiative believes the end results would be “less impervious surface (and therefore, less pollutant runoff), more open space and natural areas preserved and higher aesthetic and recreational values, reduced development cost (infrastructure, landscaping and maintenance costs are all lessened).”<sup>91</sup> To implement the concept, seven community development corporations (CDCs) have been formed to conduct conservation planning for their proposed affordable housing developments.<sup>92</sup>

An additional planning technique that could be used to foster open space goals, in conjunction with affordable housing, would be reducing minimum lot size requirements. This technique is discussed in more detail under the “Minimum Lot Size Requirements” section below.

**Alternative Approach 19.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***

### ***Minimum Lot Size Requirements***

Lot size requirements vary across each urban community and by the individual zoning districts. The most common measurement of this criterion is overall lot area (generally in square feet or acres), but is also expressed by minimum lot width (Hillsborough County, Jacksonville, and Palm Beach County). Orlando expresses their requirements in a range, as the code is written it is not entirely clear if this represents absolute minimum and maximum standards (identified as “typical lot sizes”).

The land development codes for the emerging urban communities are similarly constructed; all four express lot size requirements by both area and lot width. Alachua County determines the multi family lot sizes by the number of units within the building. Within single-family districts there is no established lot size, just as long as the density requirements are met.

The land development codes vary across the four rural communities. Gadsden County minimum lot sizes are differentiated by clustered and non-clustered single-family units; the County does allow for lot size exceptions. Lake City addresses minimum lot size only in relation to subdivision developments in which no lot can be smaller in area than is required by the zoning code for the particular zoning district. Hendry County has no minimum lot size requirements for its Planned Unit Development district so as long as adequate open space and buffering are provided.

**Issue 20:** Minimum lot sizes can have the unintended consequence of limiting developable densities, increasing the cost of providing infrastructure, and limiting the provision of new, affordable housing units.

A study by the University of Wisconsin-Milwaukee indicated that minimum lot sizes and their associated minimum lot widths affect total land improvement costs. Their analysis of the cost of providing six infrastructure components (curb and gutter, sanitary sewer, water, stormwater, streets, and sidewalks) revealed the cost of each of the six improvements, and thus the cost of an improved lot, increases substantially as the width of the lot increases. The total improvement costs for a lot 60 feet wide are \$6,910, while the total improvement costs for a lot 200 feet wide add up to \$18,144. Based on the established three-to-one ratio of improvement costs to the sale price of house and lot, the increased frontage would result in an additional cost to the home buyer of \$33,702.<sup>93</sup>

The Centre County, Pennsylvania, Affordable Housing Coalition noted that the minimum lot size for single-family homes could be reduced to 3,500-6,000 square feet, since it would lower the cost of residential development costs while also appealing to today's smaller households.<sup>94</sup>

**Alternative Approach 20.1:** See *Alternative Approach 14.1 (page 103)*

#### **Pro(s):**

- See *Alternative Approach 14.1*

#### **Con(s):**

- See *Alternative Approach 14.1*

#### **Operational Steps:**

- See *Alternative Approach 14.1*

### ***Building Height Restrictions***

Little variation exists across the twelve communities relative to building height restrictions. The standard height in all community types and in most single-family residential zoning districts is 35 feet in height. There are some exceptions. Alachua County allows for an increased building height in its R-2a and R-3 districts (multi family), Orlando expresses its building restrictions by stories, while Escambia's R-4 (multi family, medium high density district) is capped at 95 feet. Bartow has adopted affordable housing standards to be eligible for density bonuses where no building may exceed 35 feet in height. Similarly, Gadsden County has established meeting all building height requirements (among others) as a standard for its residential infill development ordinance.

***Issue 21:*** Consideration about the potential impacts building height restrictions have on affordable housing include: building heights and the use of increased density are contrary to one another and encourage the use of additional land for development. The Washington Area Housing Partnership notes the “Costs of developing affordable units are offset with zoning exceptions, such as relaxed height restrictions.”<sup>95</sup>

***Alternative Approach 21.1:*** See *Alternative Approach 14.1 (page 103)*

***Pro(s):***

- See *Alternative Approach 14.1*

***Con(s):***

- See *Alternative Approach 14.1*

***Operational Steps:***

- See *Alternative Approach 14.1*

### ***Fee and Dedication Requirements***

A review of the fee and dedication requirements across the twelve communities yielded a wide range of material because of the lucid nature of this criterion (in comparison to building height for example). As such, comparing the findings from one community to another is more difficult and offers less of a basis for substantiating conclusions. There are however, several categories of common fees found in most of the communities:

- Concurrency fees
- Impact fees
- Permit/building fees
- Administrative fees
- Development fees

**Issue 22:** Waivers of fees and dedication requirements are tools being used by communities in Florida to aid in the provision of affordable housing. For instance, the City of Orlando, through its Affordable Housing Certification Process, provides impact fee grants for transportation, sewer, and schools.

Pinellas County provides the following for owner-occupied units:

*To be eligible for fee relief, the builder or developer must be certified as an Affordable Housing Development prior to applying for permits. There can be no waiver of this requirement. Fee relief for owner-occupied housing is available only to the extent that budgeted funds remain available at the time of certification. Impact and connection fee relief is also available to an owner or builder building a single stand-alone affordable unit.*

The County also offers renter-occupied developers these benefits:

*Developers building affordable units for rent to income-eligible households may seek expedited permit processing; relief from County impact, connection, and review fees; and other incentives provided through modification of development standards. Applicants for fee relief must sign a Land Use Restriction Agreement pledging to rent to eligible households at affordable rents for the period required by the funding source or by local policy. To be eligible for the fee relief, the developer must apply for certification as an Affordable Housing Development prior to applying for permits. There can be no waiver of this requirement. Impact and connection fee relief is provided only for the number of units that will serve eligible households and is limited to 20% of the total units. Rental housing fee relief is available only to the extent that budgeted funds remain available at the time of certification.<sup>96</sup>*

**Alternative Approach 22.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***

### ***Administrative Processing Procedures***

Similar to the fee and dedication requirements, administrative processing procedures are difficult to compare across communities. The material listed for each community intends to offer a range of processes and procedures as they directly relate to the application process and subsequent construction of housing development. Common procedures across the twelve communities include:

- Development review/order procedures
- Administrative review procedures
- Permitting and occupancy processes/requirements
- Site plan/platting procedures

***Issue 23:*** See ***Issue 22 (page 114)***

***Alternative Approach 23.1:*** See ***Alternative Approach 14.1 (page 103)***

***Pro(s):***

- See ***Alternative Approach 14.1***

***Con(s):***

- See ***Alternative Approach 14.1***

***Operational Steps:***

- See ***Alternative Approach 14.1***

### ***Modular/Mobile Home Requirements***

All four urban communities address mobile homes through their respective land development codes. Hillsborough has a distinct mobile home overlay district that is intended to establish design standards and procedures for the integration of mobile homes into the respective jurisdictions. Palm Beach County has a similar land use designation of Mobile Home Planned Development District. Jacksonville explicitly encourages mobile homes as a tool for providing affordable housing and therefore, allows modular homes in all residential districts (subject to the respective district requirements).

*Today, modular is attracting a new generation of housing thinkers with some bright new ideas.*

Florida Workforce  
Housing Network

The emerging urban communities differ in their approach to addressing mobile homes in the land development code. Naples simply does not allow for the use of mobile homes as a residential use. Both Alachua County and Ocala have standards not only for individual mobile homes, but have developed standards for mobile home parks (which include among others, requirements for plot area, density, and setbacks). Finally, Alachua County has a similar district to Palm Beach County that establishes mobile home design standards.

The rural communities approach mobile homes through their land development code in a similar fashion as the emerging urban communities. Particularly, Bartow has established a manufactured/mobile home park district which is guided by several distinct requirements. Lake City however, has less explicit guidelines for mobile home requirements. The City limits their code to address mobile homes as it relates to flood prevention only; there is nothing in the land development code that expressly regulates mobile home use.

**Issue 24:**

The Centre County, Pennsylvania, Affordable Housing Coalition noted factory-built, single-family structures that are manufactured under the authority of 42 U.S.C. Sec. 5401, the National Manufactured Home Construction and Safety Standards Act, have production costs that are lower than conventional built housing. They also noted the same for modular homes.

The Florida Workforce Housing Coalition indicated one of the benefits of modular homes is the amount of time for construction, when compared to traditional techniques. The Coalition notes a modular home's factory-built sections can be transported to the home site and completely installed in as little as 30 days at two-thirds of the cost of traditional construction.<sup>97</sup>

**Alternative Approach 24.1:** See ***Alternative Approach 14.1 (page 103)***

**Pro(s):**

- See ***Alternative Approach 14.1***

**Con(s):**

- See ***Alternative Approach 14.1***

**Operational Steps:**

- See ***Alternative Approach 14.1***



## XIV

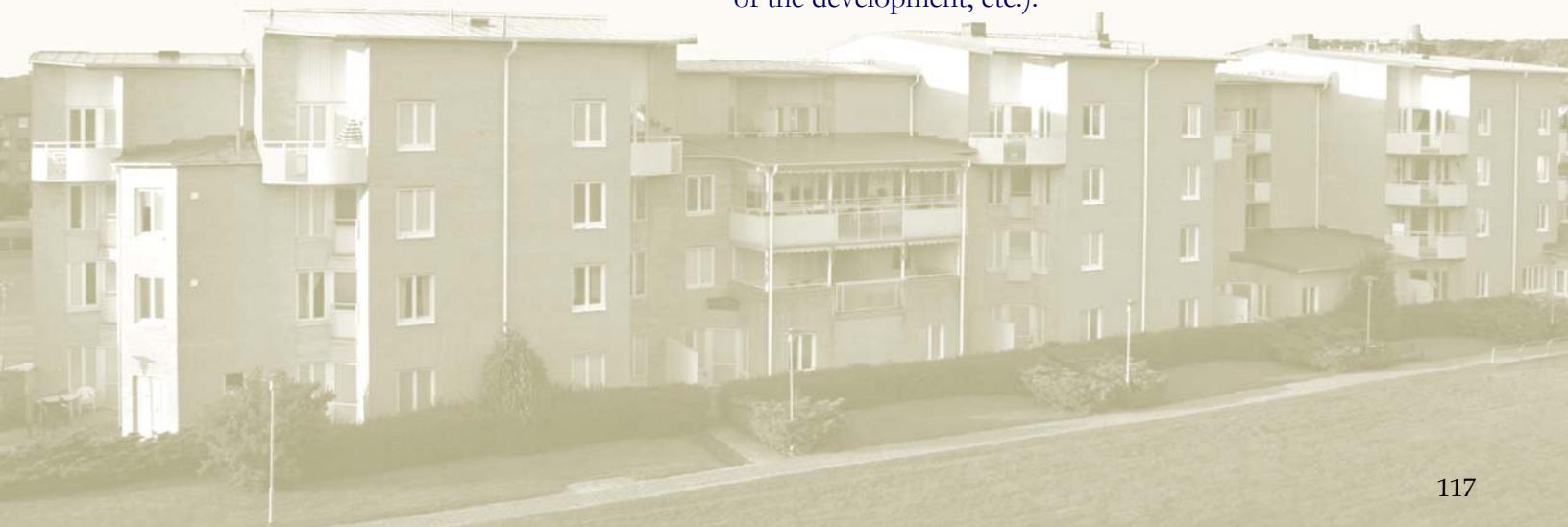
### MODEL PROCESS FOR IDENTIFYING AFFORDABLE HOUSING NEEDS AND DEVELOPING AND IMPLEMENTING AN ACTION PLAN

*For the things  
we have to learn  
before we can do  
them, we learn  
by doing them.*

Aristotle

Three eligible cities of the State of Florida's Small Cities Community Development Block Grant Program (Alachua, St. Augustine and Sebring) representing urban, emerging urban and rural designations were selected to participate in the development of a model process to assist each local government in designing and implementing an affordable housing development that addresses their specific affordable housing needs. The following design process resulted:

1. Community representatives are asked to select no more than three vacant parcels that would be suitable for the development of affordable housing.
2. The selected parcels will be examined to determine its land use and zoning designation, significant environmental features, ownership data, market value (as assessed by the Property Appraiser), and adjacent land uses.
3. Community representatives, at a facilitated, public workshop, will be asked to determine:
  - a. The type of affordable housing development they would prefer (i.e., single-family, multifamily, mixed-use, mixed income residential units, etc.);
  - b. The design options they prefer (i.e., how would they like the development to look);
  - c. The preliminary layout of the development;
  - d. The supporting amenities they prefer;
  - e. Their proposed development process (i.e., public-private partnership, private sector developer, public sector or non profit developer);
  - f. Timelines for significant implementation activities (i.e., land acquisition, site planning, development review, permitting, construction, identification of future residents of the development, etc.).



4. The community input received from the facilitated, public workshop will be used to develop an Action Plan with a design component produced by a professional architectural team. The Action Plan will also identify potential funding sources (including contact information) for the identified, significant implementation activities as well measurable outcomes and parties responsible for the completion of each activity.
5. Community representatives, at a second facilitated, public workshop, will review the draft Action Plan and, as needed, provide input to finalize the Plan.
6. Community is provided the finalized Action Plan and architectural design palette.



**TABLES:**

- Table 1. Survey Responses Regarding AHNA Data Uses  
(page 25)
- Table 2. Revenue Generated from Various Linkage Programs, Nationwide  
(page 51)
- Table 3. Affordable Housing Review Processes by Regional Planning Council  
(page 71)
- Table 4. Setback Requirements: With and Without On-Street Parking, City of Orlando  
(page 107)

**ADDENDUMS:**

- Addendum 1-1 Growth Management State Comprehensive Plan Summary
- Addendum 2-1 Summary Document AHNA
- Addendum 3-1 Comp Plan Review Methodology
- Addendum 4-1 FHFC Universal Cycle Example
- Addendum 4-2 SHIP HAP Guidelines
- Addendum 4-3 Rule 9B-43, F.A.C. CDBG Guidelines
- Addendum 5-1 Jim Nicholas Article
- Addendum 5-2 Inclusionary Zoning and Linkage Report (sample ordinances)
- Addendum 5-3 Design Considerations
- Addendum 6-1 Affordable Housing Committee Article (Stan Fitterman)
- Addendum 7-1 Copy of 9J-2.048
- Addendum 7-2 ECFRPC Methodology
- Addendum 8-1 Accessory Dwelling Unit Report
- Addendum 9-1 New England Study Summary
- Addendum 10-1 Summaries of Eleven Identified Land Use Regulations

*2007 Affordable Housing Report  
addendum documents may be found at [www.adgonline.com](http://www.adgonline.com).*

*Click Publications link on the homepage*

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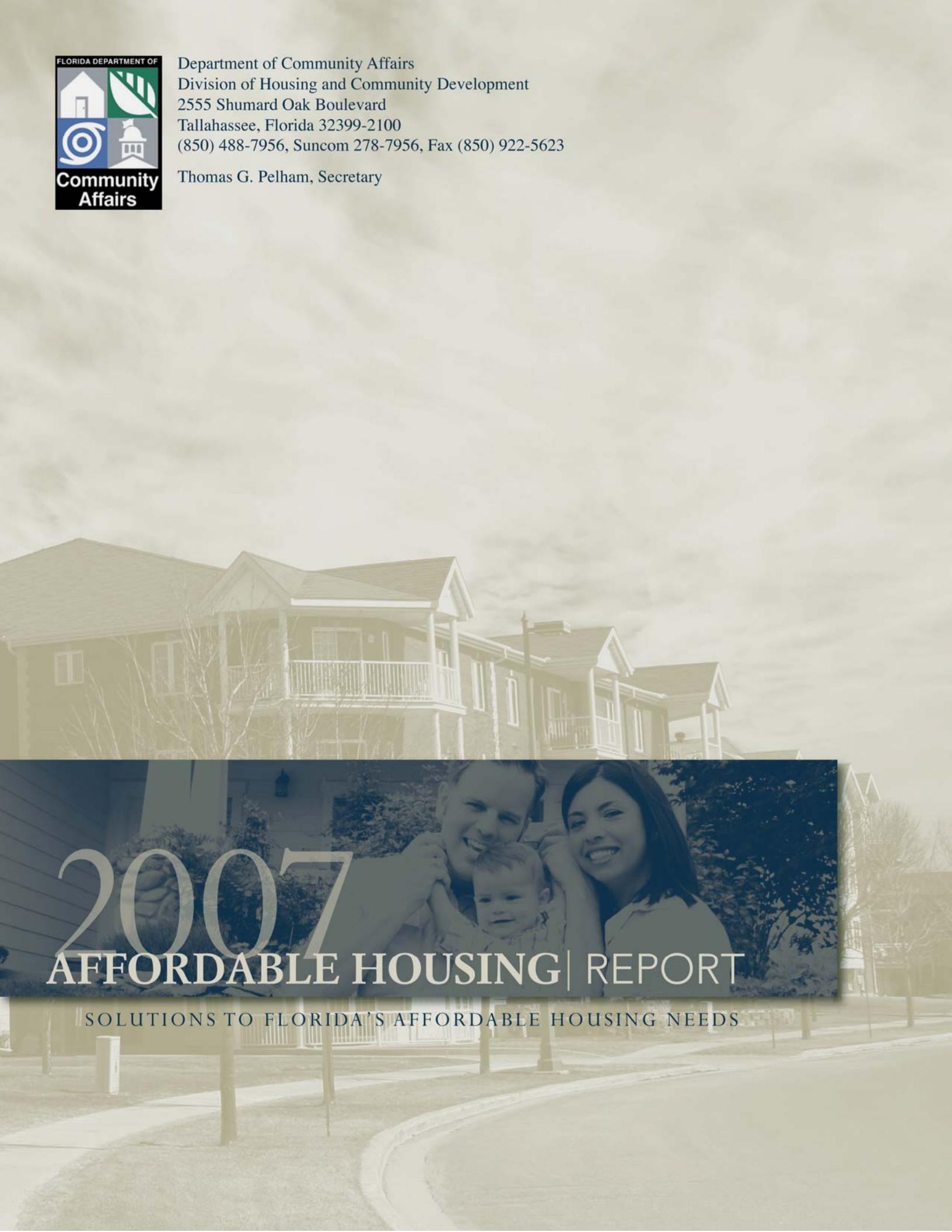
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Thomas G. Pelham, Secretary

A large, semi-transparent rectangular overlay covers the lower half of the page. It features a photograph of a smiling man, woman, and young child standing in front of a row of modern townhouses. The year "2007" is printed in large, light-colored digits across the left side of the overlay.

# 2007 AFFORDABLE HOUSING | REPORT

SOLUTIONS TO FLORIDA'S AFFORDABLE HOUSING NEEDS