

11/6/01 #002061



# ALACHUA COUNTY DEPARTMENT OF GROWTH MANAGEMENT

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Coordinator

November 5, 2001

## MEMORANDUM

**TO:** Board of County Commissioners  
**VIA:** Randall Reid, County Manager *LR*  
**VIA:** Richard Drummond, Director, Growth Management Department *R*  
**FROM:** Tom Webster, Housing Programs Coordinator *TW*

Attached please find the following affordable housing documents for the joint meeting between the Alachua County Board of County Commissioners and the City of Gainesville Commission to be held tomorrow, November 6<sup>th</sup>, 2001:

The "How To" for Adopting an Inclusionary Housing Ordinance, by Jamie Ross, Affordable Housing Director, 1000 Friends of Florida

State of Florida Affordable Housing Study Commission Final Report 2001: Local Adoption of Inclusionary Housing and Linkage Fee Ordinances

Inclusionary Housing: A Discussion of Policy Issues, by Anne Ray, MUPP (This document has previously been provided to the BOCC).

Housing Element Policy as transmitted to DCA

cc: Wayne Bowers, City Manager, City of Gainesville  
City of Gainesville Commission





## The “How To” for Adopting an Inclusionary Housing Ordinance

Jamie Ross

Affordable Housing Director

1000 Friends of Florida 850 822-6277

- Understanding the Impetus and Assessing the Political Environment
  - What are your objectives?
  - Comprehensive planning requirement?
  - Find the alliance
- Educating the Stakeholders
  - Begin with affordable housing in general: tackle design and the “who”
  - Anticipate how to overcome NIMBYISM
- Tailoring the Ordinance to Fit the Community
  - Issues that must be addressed within the context of your objectives
    - Geographic applicability
    - Threshold number of units: what triggers the requirement
    - Percentage of affordable units/eligible households
      - Sliding scale i.e. 5% for 50 units; 10% for 100
      - Very low, low, moderate
    - Type and tenure of units
      - Attached vs. detached
      - Home ownership vs. rental
    - Incentives
    - Payment in Lieu Options: setting the number
    - Terms of Affordability
      - Deed restrictions, community land trusts, second mortgages
    - Administration

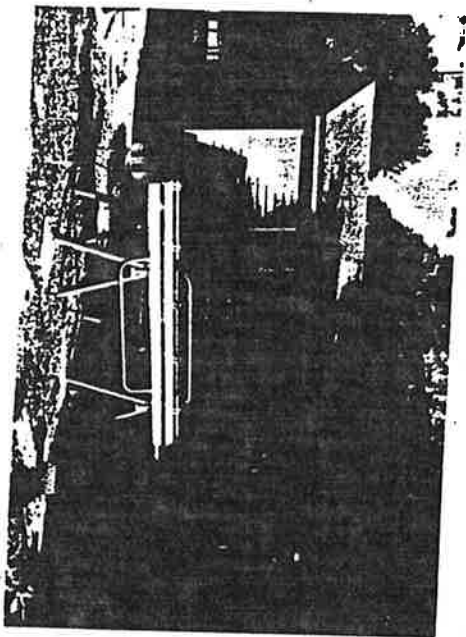


## LOCAL ADOPTION OF INCLUSIONARY HOUSING AND LINKAGE FEE ORDINANCES

Florida's 1985 Growth Management Act requires every local government in the state to adopt a housing element that addresses adequate and affordable housing for all of its current and future anticipated populations. Local governments must ensure that adequate sites are available for affordable housing, including housing for those with special needs.

While local governments are not expected to build affordable housing, they are required to assist the private sector to do so. To that end, local governments provide local government contributions to developers seeking state and federal funds, waive or pay impact fees when possible, expedite permitting for affordable housing, and sometimes adopt regulatory incentives such as linkage fees or inclusionary zoning ordinances. The Legislature showed its support for these types of ordinances this year when it enacted a Commission recommendation to revise sections 125.01(1) and 166.043, *Florida Statutes*, to expressly permit local adoption of land use mechanisms to increase the supply of affordable housing.

**Inclusionary Housing.** "Inclusionary zoning" is a misnomer; it is a land use ordinance that assists a local government in meeting its legal responsibilities under the housing element. It requires developers of multiple market rate units, say 25, 50, or 100, to include some percentage of affordable, lower-cost units, usually from five to twenty percent, within their



developments. In this way, local governments may ensure that the private sector does not use all the developable residential land only for middle- and upper-income housing.

Although inclusionary land use ordinances have at least two concurrent objectives—to increase the supply of affordable housing and to create socioeconomically integrated communities—additional smart growth benefits also accrue. Housing choices are increased, as is diversity in community schools and the amount of affordable housing co-located with suburban employment opportunities, creating a jobs-housing balance and reducing transportation burdens.

In addition, every local government receiving federal dollars, such as Community Development Block Grant funds, has a legal obligation to affirmatively further fair housing within its jurisdiction.

**In the Development of Regional Impact process (Chapter 380, *Florida Statutes*), Florida law requires that large commercial developments ensure affordable housing for the employees they generate when the community lacks adequate affordable housing for those workers. This statute operates as a combination linkage fee and inclusionary housing ordinance. Unfortunately, the statute has been largely ineffective at producing affordable housing. A local inclusionary housing ordinance can change that. The inclusionary housing ordinance could be drafted to apply to both commercial and residential developments, and could make irrelevant the time consuming, costly, and arduous process of Developments of Regional Impact. The inclusionary housing ordinance is a land development regulation that requires no expensive studies from the developers and can be easily and equitably applied in a routine fashion.**

Inclusionary housing is the optimum way for local governments to further fair housing. Inclusionary housing policies provide a meaningful move forward for low-income families that might otherwise be lost in the concentration of poverty that results from exclusionary zoning and land use practices.

An inclusionary land use ordinance will likely vary a great deal from one jurisdiction to another.

may apply throughout an entire jurisdiction, others only in high-income areas of a county or city. Some may insist that the affordable units be built on site, while others may allow the developer to build the units nearby, or even to opt out entirely with an in-lieu payment to a housing trust fund. These are just a few of the options that render each ordinance unique.

There are, however, some elements that all inclusionary land use ordinances are likely to share, including:

- 1. A threshold number of market rate units that activates the inclusionary requirement for a corresponding percentage of affordable units;
- 2. A requirement that the affordable units are comparable in quality and aesthetics to the market rate units, so that even if they are smaller or of a different type, they will blend into the community;
- 3. Incentives to assist the private sector in providing the affordable units, such as density bonuses, financial subsidy for construction, or down payment assistance to the affordable homebuyer;
- 4. A provision for payment in-lieu when the nature of the development (for example, a development of exclusively half-million dollar homes) makes it infeasible to include affordable units; and
- 5. A housing trust fund as the depository for the payments in-lieu, and a mechanism for using those dollars to provide affordable housing within the community.

The best known inclusionary land use ordinance is Montgomery County, Maryland; it has been in effect for over twenty years. A number of inclusionary land use ordinances can also be found in California and throughout the northeast. A handful of

local governments from South Florida to the Panhandle are in the process of developing and adopting inclusionary land use ordinances. The city of Tallahassee was the maverick in this effort and is presently working to improve the effectiveness of its ordinance.

A model inclusionary housing ordinance can be found in Appendix 3. It is only a starting place, and must be modified to conform to a local government's needs.

**Linkage Fees.** A linkage fee ordinance can be used as a complement to an inclusionary housing ordinance. Linkage fees are a way for local governments to collect monies from non-residential developments and/or market rate residential developments to be placed in a housing trust fund for others to use in building affordable housing.

Linkage fees are a recognition that commercial, industrial, and upper end residential construction all increase the need for employment of low wage workers who will be in need of affordable housing within the community. The development of land for employment-generating activities creates the need for housing those employees. Even residential development creates the need for jobs, such as housekeeping and lawn maintenance. Both nonresidential development and market rate housing development take up land that might otherwise be used to provide affordable housing. The linkage fee is not a tax; it is a regulatory fee akin to an impact fee.

**How Linkage Fees Are Calculated.** Generally, a linkage fee is collected as a certain monetary amount multiplied by the square footage permitted. For

example, the fee might be \$3.00 per square foot of nonresidential construction. The amount a local government charges per square foot in its linkage ordinance is best determined by a local or regional economic and demographic study that takes into account the local market conditions. The calculation can be rather complicated. A sample fee equation is as follows:

$$\text{Fee} = \text{Employees} \times \text{Cost} \\ \text{Unit of Development}$$

Employees per unit of development is the number of targeted employees per some measure of development, probably 1,000 square feet.

Cost is the economic cost of providing a new housing unit; that is, the cost of production less the present value which could be supported by the income of a low- or moderate-income household.

Winter Park, Florida, has successfully adopted a linkage fee ordinance. Appendix 4 offers a model linkage fee ordinance based on Winter Park's that can be a starting point for local governments in developing their own ordinance.

**RECOMMENDATION:** Local governments should consider adopting land use ordinances, such as inclusionary housing and linkage fees, to strengthen the community's capacity to provide affordable housing.