

Florida Statute 125.01055 (Effective July 1, 2019)

INCLUSIONARY HOUSING ORDINANCE

Changes

- Affordable Housing – Sections 125.01055 and 166.04151
- Development Review – Sections 125.022 & 166.033
- Comprehensive Plan restrictions – Section 163.3167
- Impact Fees – Section 163.31801
- Private Provider Building Inspections – Section 553.791

Inclusionary Housing Ordinance Sections 125.01055 and 166.04151

- A municipality may adopt an Inclusionary Housing Ordinance.
- Provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units.
  - Obviously this requires the adoption of a formal ordinance outlining the requirements.
- In exchange, a county must provide incentives to fully offset all costs to the developer of its affordable housing contribution.

Inclusionary Housing Ordinance Continued

- INCENTIVES TO FULLY OFFSET ALL COSTS TO THE DEVELOPER OF ITS AFFORDABLE HOUSING CONTRIBUTION.
  - Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning.
  - Reducing or waiving fees, such as impact fees or water and sewer charges.
  - Granting other incentives.
  - FULLY OFFSET has not been tested and remains subjective at this time.

Development Review 125.022 & 166.033, Florida Statutes

- Local Government must review the application for completeness and provide a letter that specifies the deficiencies or Request for Additional Information (RAI) .
  - If RAI is issued, developer has 30 days to respond.
- Once application is complete Government has 120 days to either approve, approve with conditions or deny the application.
- The amendments seem to now affirmatively requires a quasi judicial body to set forth its decision making reasoning and the facts it relies on to reach such a decision.
  - It looks like it requires formal "findings of fact" to support the decision.

Comprehensive Plans F.S. 163.3167

- Any comprehensive plan or land development regulation adopted from 2019 forward must incorporate each development order existing before the comprehensive plan's effective date.
- Must also not impair the completion of the previously granted development order and must affirmatively vest the density and intensity of the approved development order.
- If you hold a valid development permit or order that was issued prior to the adoption of comprehensive plan or land use code amendments, not only does your permit remain valid, so does your allocation of density.
  - Provides safe guards to earlier development orders.
  - This will encourage local governments to include expiration dates in development orders.

Impact Fees Continued

- If a local government increases impact fee rates, the holder of any impact fee credits, whether granted by statute or otherwise, that were in existence prior to the rate increase, remains entitled to the full benefit of said credit.
- As it relates to affordable housing, a local government may exempt or waive impact fee collection for development or construction of affordable housing.
  - Section 163.31801, F.S., does not apply to water and sewer connection fees

Impact Fees
Florida Statute 163.31801

- The collection of impact fees may not occur prior to the date of issuance of the building permit for the subject property.
- The local government must specifically designate collected impact fee funds for use in the acquisition, construction or improvement of capital benefits for new users.
- The impact fee revenues may not be used (in whole or part) to pay existing debt or for previously approved projects unless the expenditure is “reasonably connected” or has a “rational nexus” with the increased impact generated by the new development.

Private Provider Building Inspections – Fees

- 553.791(2)(b), F.S., has been changed to prohibit local governments for charging an owner for building inspection fees when that owner has exercised the option of retaining its own, private provider, to perform plan reviews and building inspections.
- The time period for the issuance of a building upon receipt of a completed application and associated affidavit of compliance from the private provider has been reduced from 30 days to 20 days.
- Section 553.791(18), F.S., has been amended to mandate that private inspection providers may not be audited more than four times per calendar year unless it is determined by the local jurisdiction that "a condition of a building constitutes an immediate threat to public safety and welfare."