Inclusionary Housing Ordinance
June 24, 2003

AMENDED ORDINANCE NO. _____ (Inclusionary Housing)

AN ORDINANCE OF LEON COUNTY, FLORIDA, AMENDING THE CODE OF LAWS, CHAPTER X, ADDING A NEW SECTION, INCLUSIONARY HOUSING; PROVIDING FOR INTENT OF THIS SECTION; PROVIDING FOR DEFINITIONS; ESTABLISHING APPLICABILITY; ESTABLISHING EXEMPTIONS; ESTABLISHING EXCLUSIONS; PROVIDING REQUIREMENTS FOR INCLUSIONARY HOUSING; PROVIDING STANDARDS AND REQUIREMENTS FOR CONSTRUCTION AND OCCUPANCY OF INCLUSIONARY HOUSING; ESTABLISHING INCENTIVES FOR PROVIDING INCLUSIONARY HOUSING; PROVIDING FOR ADMINISTRATION; ADDING A NEW SECTION, MARKET RATE HOUSING IN LOWER INCOME AREAS; PROVIDING FOR INTENT OF THIS SECTION; PROVIDING FOR DEFINITIONS; ESTABLISHING ELIGIBILITY; ESTABLISHING EXCLUSIONS; ESTABLISHING DEVELOPMENT INCENTIVES FOR PROVIDING MARKET RATE HOUSING; PROVIDING FOR ADMINISTRATION; AMENDING AND REVISING CHAPTER X, ARTICLE XI, DIVISION 8, DEVIATION TO DEVELOPMENT STANDARDS, SECTION 10-1603, CRITERIA FOR GRANTING A DEVIATION FROM DEVELOPMENT STANDARDS; ESTABLISHING A PRESUMTION OF COMPATIBILITY AND CONSISTENCY; PROVIDING FOR MONITORING AND PERIODIC REVIEW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

New Section. Chapter X, Leon County Code of Laws is hereby amended by creating Section ____, which shall read as follows:

Section 1. Inclusionary Housing.

(1) *Intent*

The regulations and requirements of this Ordinance are intended to:

1. promote the health, safety and general welfare of the citizens by implementing the goals, objectives and policies of the Tallahassee-Leon County Comprehensive Plan Housing Element and Chapter 163, Part II, Florida Statutes; requiring the provision of housing for all current and anticipated future residents of the County;
2. increase the production of affordable housing to help meet existing and anticipated housing needs;

3. provide home ownership opportunities for eligible households;
4. ensure that affordable housing opportunities are available throughout the entire community;
5. enable property developers to provide inclusionary housing without economic loss or penalty as a result thereof, and have reasonable prospects for realizing a profit on inclusionary housing units by virtue of a density bonus provision, modified development standards, and special administrative procedures offered within this Section as incentives;
6. require developments of one-hundred (100) or more dwelling units or 100 acres or larger within higher income portions of Urban Services Area ("selected census tracts," as defined by this Section) to offer for sale no less than 5% of their residential units at prices affordable to upper range of low income households;
7. promote the creation of residential developments that include a range of housing opportunities through a variety of residential types, forms of ownership, and home sales prices;
8. ensure that inclusionary housing units provided pursuant to this Section are structurally sound, safe, and durable;
9. promote the compatibility of inclusionary units with other residential units within the developments in which they are located and with which they are adjacent, through an emphasis upon aesthetic comparability; and,
10. ensure that Target Planning Areas, Critical Planning Areas, and Developments of Regional Impact provide inclusionary affordable housing opportunities.

(2) *Definitions.* The following words and phrases, as used in this Section, have the following meanings:

1. *Affordable Housing* - as defined pursuant to Section 10-1 of the Leon County Zoning, Site Plan and Subdivision Regulations.
2. *Area Median Income* - An amount determined annually by the U.S. Department of Housing and Urban Development (HUD) based on the estimated median income for a family of four in geographic areas around the country. For purposes of this Ordinance, the Area Median Income is considered the amount determined by HUD for the Tallahassee Metropolitan Statistical Area (MSA).
3. *Development of Regional Impact (DRI)* - as defined pursuant to Part II, Chapter 380.06, Florida Statutes.
4. *Eligible Households* - households whose annual income is less than or equal to 80% of the Area Median Family Income for the Tallahassee Metropolitan Statistical Area, published annually by the U.S. Department of Housing and Urban Development.
5. *Inclusionary Housing* - Housing provided for sale at no greater than the maximum affordable housing sales price to eligible households within developments containing housing units also selling at market sales price and higher.

6. *Maximum Affordable Housing Sales Price* - The maximum sales price of inclusionary housing unit to an eligible household as established by this section. The maximum affordable housing sales price shall be equivalent to the maximum sales price limits for new single family residences in Leon County established by the Florida Housing Finance Corporation Single Family Mortgage Revenue Bond Program, published annually.
7. *Residential Development* - New construction of for-sale residential units. Construction of accessory apartments, as defined in this Chapter, are not considered "residential development" for the purposes of this Section.
8. *Selected Census Tracts* - Those census tracts where inclusionary housing provisions of this Section apply to new development. These census tracts are those in which the median family income is greater than the median family income for Leon County, as a whole, as identified by the most recently released census data. A map of the selected census tracts is maintained by the Tallahassee-Leon County Planning Department.
9. *Southern Strategy Area* - The area in the southern portion of the Tallahassee urban area as designated in the Land Use Element of the Tallahassee-Leon County Comprehensive plan wherein new development and investment is encouraged. A map of the Southern Strategy Area is maintained by the Tallahassee-Leon County Planning Department.

(3) *Applicability.*

a) The requirements of this Section to provide inclusionary housing shall apply to new developments located in selected census tracts within the Leon County, within the Urban Service Area, served by central water and sewer utilities, that are 100 acres or larger, or are intended to accommodate the construction and sale of 100 or more residential dwelling units; and,
b) The Requirements of this Section to provide inclusionary housing shall apply to developments in Target Planning Area zoning districts, Critical Planning Area zoning districts, and Developments of Regional Impact, regardless of location.
c) Incentives shall be available in exchange for the voluntary provision of inclusionary housing when not otherwise required by this Section. In such instances, the provision of incentives shall be limited to those developments located in within the Urban Service Area; served by central water and sewer utilities; having a density of no less than 2 dwelling units per acre; and, providing no less than 4 dwelling units, but no greater than 33 1/3% of the total number of dwelling units to be constructed, for sale to eligible households, at a price no greater than the maximum affordable housing sales price.

(4) *Exemptions.* The following developments shall be exempt from this Ordinance:

a) development authorized pursuant to any previously-approved unexpired development order, defined as a final development order in Section 10-96;
b) developments intended to accommodate the construction and sale of less than 100 residential dwelling units;

c) residential development provided as part of local government's affordable housing program;
d) residential development in census tracts where the median family income is equal to or less than the median family income for Leon County, except for developments located within Target Planning Area (TPA) zoning districts, Critical Planning Area (CPA) zoning districts, and Developments of Regional Impact (DRIs);
e) residential development in areas designated for Lake Protection on the Future Land Use Map of the Tallahassee-Leon County Comprehensive Plan;
f) multifamily and multi-unit residential units constructed for rental purposes;
g) conversion of non-residential structures into new residential structures;
h) nursing homes, assisted care living facilities, and retirement homes;
i) residential development in the Southern Strategy Area, except for developments located within Target Planning Area (TPA) zoning districts, Critical Planning Areas (CPA) zoning districts, and Developments of Regional Impacts (DRIs);
j) accessory apartments;
k) the transfer or conversion of existing residential units, not initially offered for sale or rent to comply with the inclusionary housing requirements of this ordinance;
l) dormitories and group quarters, as defined by the US Census of Population and Housing; and,
m) mobile home and standard design manufactured home parks and subdivisions.

(5) *Exclusions.* The following shall not be eligible for the incentives provided herein:

a) any development located outside of the Urban Services Area;
b) developments wherein forty percent (40%) or more of the residential dwelling units available for sale and rental have been financed by a governmental entity, in whole or in part, or have had financing otherwise secured by a governmental entity, where the sale or rental of these units is restricted to either low or very-income households or persons;
c) multifamily and multi-unit residential units constructed for rental purposes;
d) nursing homes, assisted care living facilities, and retirement homes;
e) improvements to existing structures, except when improvements exceed 50% of the existing structural value and the structure will be provided for sale as inclusionary housing, pursuant to this Section;
f) dormitories and group quarters, as defined by the US Census of Population and Housing;
g) residential development within zoning districts with a maximum density limit of less than 2 dwelling units per acre, residential development in areas designated for Lake Protection on the Future Land Use Map of the Tallahassee-Leon County Comprehensive Plan; and,
h) mobile homes, standard design manufactured homes, and any residential unit type offered for sale within a mobile - or manufactured home park or subdivisions.

(6) *Requirements for Inclusionary Housing*

a) Number of inclusionary units required. The owner of any property to be subdivided or otherwise developed within a selected census tract, of 100 acres or larger, or wherein 100 or more dwelling units will be offered for sale, shall offer for sale no less than five percent (5%) of the total number of dwelling units to be constructed to eligible households, at a price no greater than the maximum affordable housing sales price.

b) Maximum Affordable Housing Sales Price.

1. Inclusionary housing units offered for sale pursuant to this Section shall not be sold at prices that exceed the maximum affordable housing sales prices; except for subsequent resale, as otherwise provided by this Section.
2. The maximum affordable housing sales price shall be equivalent to the maximum sales price limits for new single family residences in Leon County established by the Florida Housing Finance Corporation Single Family Mortgage Revenue Bond Program, published annually.
3. The maximum affordable housing sales price shall be shall be maintained by the Leon County Division of Housing or its successor.

c) Location requirements for inclusionary units. Affordable units offered pursuant to this Section shall be located within the respective development of 100 acres or larger, or wherein 100 or more dwelling units will be offered for sale.

d) Provisions for alternative location of inclusionary units. The Board of County Commissioners or their designee may grant a waiver to Part c) of this Subsection, to allow the owner to offer the units off-site, at an alternative location within the same census tract or an adjacent selected census tract.

To qualify for this waiver, the owner must demonstrate that the proposed alternative is an adequate location for the provision of inclusionary housing, based upon site characteristics, infrastructure and service availability, and proximity to public facilities and employment centers.

If such approval is granted, the property owner shall offer for sale no less than six percent (6%) of the total number of dwelling units to be constructed to eligible households, at a price no greater than the maximum affordable housing sales price.

e) Provisions for inclusionary housing within the Critical Planning Area and Target Planning Area zoning districts and Developments of Regional Impact: number of units required. The owner of any development within the Critical Planning Area (CPA) or Target Planning Area (TPA) zoning district or within a Development of Regional Impact (DRI), wherein 100 dwelling units or more will be offered for sale, shall offer no less than five percent (5%) of the total number of dwelling units to be constructed within their respective development as inclusionary housing for eligible households.

f) Counting of fractional unit requirements. For purposes of this Section, where the number of units required to be provided as inclusionary housing units is a fraction of a whole number, a fraction of one-half of a dwelling unit or greater shall be considered as one entire affordable unit.

g) Aggregation. For purposes of this Section, two or more developments shall be aggregated and considered as one development, if they are not more than ¼ mile apart and any two of the following criteria are met:

1) There is a common interest in two or more developments;
2) The developments will undergo improvements within the same five year period;
3) A master plan exists submitted to a governmental body addressing all developments;
4) All developments share some infrastructure or amenities;
5) A common advertising scheme addresses all development.

(7) *Standards and Requirements for Construction and Occupancy of Inclusionary Housing*

The following shall apply to inclusionary residential units provided under this Ordinance:

a) Inclusionary residential units shall be similar in exterior appearance, as far as design and material, to other dwelling units in the neighborhood, subdivision, or development in which it is located. This shall not be interpreted to restrict flexibility with regard to individual unit type or structure size. The following standards are intended to facilitate general compatibility between inclusionary housing units and structures containing inclusionary housing and the neighborhood, subdivision or development in which they will be located:

Orientation of inclusionary units and structures with respect to the street frontage should be consistent with residential buildings in the neighborhood or surrounding area.
Façade materials and the color of façades used on inclusionary units and structures should be derived from materials and colors used on other residential building façades found in the neighborhood or surrounding area.

<u>The size, bulk, height, and shape</u> of inclusionary units and structures should be generally compatible with the size, bulk, height, and shape of surrounding residential buildings.
<u>The shape and pitch of roofs, the roof material, and the color of roof material</u> used on inclusionary units and structures should be generally compatible with and derived from residential buildings in the neighborhood or surrounding area.
<u>The number and size of windows</u> used in inclusionary units and structures, particularly along facades facing street frontages, should be consistent with residential buildings in the neighborhood or surrounding area.
<u>The placement and size of the front doors</u> of inclusionary units and structures should be generally compatible with buildings in the neighborhood or surrounding area.
<u>Resident and guest parking provisions</u> for inclusionary housing units and structures should be located in a manner consistent with the location of parking for other residential buildings in the neighborhood or surrounding area.
<u>Street lighting</u> for inclusionary housing units and structures should be generally compatible with regard to fixture design and illumination characteristics of street lighting provided for other residences in the neighborhood or surrounding area.
<u>The landscaping program</u> for inclusionary housing units and structures should be generally compatible with landscaping of other residences in the neighborhood or surrounding area.

b) Inclusionary residential units shall be subject to restrictions specifying that inclusionary residential units are available for purchase and occupancy only by eligible households as defined by this Section.

c) The sale of inclusionary residential units shall be limited for a period of ten years from the date of closing of initial sale to retain the unit's affordability. During this period, any inclusionary residential unit may only be resold to an eligible household at a price no greater than the maximum affordable sales price.

If the owner desires to sell the inclusionary unit during the 10 year term of affordability, notification shall be given to the Leon County Division of Housing, its successor, or it's designee so that it may assist the owner in finding an income eligible buyer.

If, after marketing the inclusionary unit in good faith for 120 days, the owner is unable to sell the unit at a price no greater than the maximum affordable sales price to an eligible household, the owner may sell the unit on the "open market" to any purchaser at any sales price. To facilitate the County's goal of maintaining an adequate supply of inclusionary units while assuring a fair return to the seller, the sale of an inclusionary unit on the open market during the 10 year term of affordability shall be subject to the following resale provisions: 1) the seller shall be entitled to retain an amount equivalent to the seller's customary costs of closing, including real estate brokerage fee, if any, from the proceeds of sale; 2) the seller shall remit, from the proceeds of sale, an amount equivalent to fifty percent of the difference between the resale price and the seller's purchase price of the inclusionary unit to the Leon County Division of Housing or its successor; 3) the seller shall be entitled to retain all remaining proceeds. All proceeds received by the Leon County Division of Housing or its successor will be used solely to facilitate the development of inclusionary housing within the County.

After a period of ten years from date of closing of initial sale, any inclusionary residential unit may be sold on the open market to any purchaser at any sales price. To facilitate the County's goal of maintaining an adequate supply of inclusionary units while assuring a fair return to the seller, the sale of an inclusionary unit on the open market made after the ten-year affordability period shall be subject to the following resale provisions: 1) the seller shall be entitled to retain an amount equivalent to the costs of all permanent improvements made to the unit plus all seller's customary closing costs, including real estate brokerage fee, if any, from the proceeds of sale; 2) the seller shall remit, from the proceeds of sale, an amount equivalent to fifty percent of the difference between the resale price and the seller's purchase price of the inclusionary to the Leon County Division of Housing or its successor; 3) the seller shall be entitled to retain all remaining proceeds. All proceeds received by the Leon County Division of Housing or its successor will be used solely to facilitate the development of inclusionary housing within the County.

Following the first resale after the end of the ten-year affordability period from initial closing, no further restrictions shall be imposed upon the sale of the inclusionary residential unit.

d) The owner of the inclusionary residential unit is required to maintain this unit as their principal residence until the end of the ten-year affordability period from date of initial closing.

(8) *Application of Homeowners' Association and Condominium Association Fees*

Homeowners' association or condominium association fees applied within a residential development that includes inclusionary housing units shall not be applied in a manner that distinguishes between inclusionary and non-inclusionary housing units.

(9) *Incentives for Providing Inclusionary Housing*

The following incentives are provided in exchange for the construction of new residential units for sale as inclusionary housing located within selected Census Tracts, a Critical Planning Area (CPA) or Target Planning Area (TPA) zoning district, or within a Development of Regional Impact (DRI):

a) Development Bonuses. The developer of inclusionary housing developments shall be eligible to receive the following bonuses:

1) Additional Development Density. Upon the request of the applicant, the entity with authority to approve the development application shall approve an increase in the allowable density permitted by the zoning district by up to 25% for the purpose of accommodating the provision of inclusionary housing units, as provided by the Tallahassee-Leon County Comprehensive Plan~~.~~, subject to consistency with the Comprehensive Plan definition of "Affordable Housing."

2) Relaxed Standards for Accessory Apartments. Any single-family residential unit or unit of a duplex residential structure within a development providing inclusionary housing units may have either an attached or detached accessory apartment. Detached accessory apartments shall be no larger than 900 square feet. Attached accessory apartments shall be no larger than 900 square feet or 10% of the principal residential unit size, whichever is larger.

Accessory apartments may be provided as accessory structures for any principal residential single-family dwelling unit or unit of a duplex residential structure in the development, however, there shall be no more than one accessory structure allowed per single family residential unit or unit of a duplex residential structure. Accessory apartments shall be subject to all applicable zoning district development standards including setback and coverage regulations as provided within this Chapter.

b) Design Flexibility. The developer of inclusionary housing developments shall be eligible to obtain greater flexibility in development design through application of the following:

1) Choice of Housing Type. Inclusionary housing units may be provided as single family, duplex, triplex, townhouse, or multi-family residential units and structures, regardless of the zoning district in which they are located.

2) Alleviation of Buffering and Screening Requirements Internal to the Development. For the purposes of this Section, all inclusionary housing shall be deemed to be compatible with other residential development approved pursuant to the same authorizing development order and shall not be subject to requirements for the provision of buffering or screening for purpose of mitigating incompatibility. Buffering and screening requirements remain where inclusionary housing is adjacent to property not approved for development under the same authorizing development order.

3) Relaxed Standards for Obtaining a Deviation to Development Standards. This incentive is offered to provide greater flexibility to arrange and accommodate housing units so that more units may be built on site, impacts to environmental features may be avoided, land use compatibility furthered, and the land cost component of the housing costs reduced. Any application for development approval of a development with inclusionary housing shall be eligible for the reduction or elimination of minimum front yard and side yard setbacks, the reduction of minimum lot size, as would otherwise be applicable through the application of other portions of this Chapter.

The developer of inclusionary housing seeking such deviation(s) shall submit a request for the deviation(s), along with the development application, to the entity with authority to approve the development application.

Deviations to standards for the reduction or elimination of minimum front yard and side yard setbacks, and the reduction of minimum lot size, as provided by this Section shall not be required to comply with requirements of Section 10-1603, of this Chapter for the granting of a deviation. Instead, requests for deviation under this Section shall be subject to demonstrate compliance with the following criteria:

(i) The request for deviation shall specify the standard(s) to be deviated, the extent of deviation, and where the deviation will apply (requests for deviations to setbacks should be expressed in terms of linear feet and, requests for deviations to lot sizes should be expressed in square footage; requests may provided on a graphic plan);

(ii) The deviation shall not result in an increase in gross residential density for the development in excess of the density bonus provided by this Section;

(iii) The deviation will not be detrimental to the public's health, safety, or welfare; and,

(iv) The granting of this deviation is consistent with the intent and purpose of this Section and the comprehensive plan.

Upon a finding in the affirmative, the entity with authority to approve the application shall grant the requested deviation(s).

c) Fees – Exemptions and Reductions. The developer of inclusionary housing developments shall be eligible for the following fee exemptions and reductions:

1) Fees Applied on a Unit By Unit Basis. The developer of inclusionary housing units shall not be subject to the following development application and permit fees for any and all inclusionary housing units otherwise applicable on a singular unit by unit or structure by structure basis: building permit and inspection fees, deviations pertaining exclusively for inclusionary housing units or properties and, driveway and street connection fees. Those fees for which the qualifying developer will not be subject shall be paid by Leon County and funded through the General Contingency Fund for Leon County.

2) Fees Applied on a Development-Wide Basis. Developments providing inclusionary housing shall not be subject to that proportion of the following development application and permit fees equivalent to the proportion of inclusionary housing units to be provided within the respective development to the total number of dwellings units approved for that development: site and development plan review, subdivision (preliminary plat) application review, deviation requests and, environmental permit fees. That portion of fees for which the qualifying developments will not be subject shall be paid by Leon County and funded through the General Contingency Fund for Leon County.

d) Expedited Review. The developer of inclusionary housing developments shall be eligible for expedited development review. Any application for development approval of a development including inclusionary housing shall be processed on a priority basis. The review of all such applications shall begin within one working day of submittal. The timeframe for review of such projects shall be in accordance with ordinances and adopted policies. The Director of Development Services shall serve as the County's liaison to expedite the review and approval process. This provision shall apply to site and development plan applications, subdivision applications, environmental permits, as well to individual building permits for individual inclusionary units.

e) Assistance to Inclusionary Households. Inclusionary households are eligible to receive the following assistance:

1) Financial Assistance to Households. All eligible households shall have the benefit of downpayment and closing cost assistance provided specifically within the Leon County State Housing Initiatives Partnership Program Plan Local Housing Assistance Plan (SHIPP LHAP) strategy for inclusionary housing.

2) Homeownership Training For Households. Housing counseling and training shall be provided to eligible households prior to purchase of inclusionary housing units.

(10) *Administration of Housing Provisions*

The housing provisions of this Ordinance shall be administered by the Department of Community Development, or their successor in interest. This Department shall be responsible for certifying the eligibility of applicants prior to the issuance of certificates of occupancy or their equivalent for inclusionary units.

The Department of Community Development, or their successor in interest, shall be authorized to provide interpretations regarding the implementation and administration of this Section.

New Section. Chapter X, Leon County Code of Laws is hereby amended by creating Section ____, which shall read as follows:

Section 2. Market-Rate Housing in Lower Income Areas.

(1) *Intent*

The regulations and requirements of this Ordinance are intended to:

1. implement infill strategy through the provision of incentives for the construction of housing for above-moderate income households in lower income areas;
2. promote the health, safety and general welfare of the citizens by implementing the goals, objectives and policies of the Tallahassee-Leon County Comprehensive Plan Housing Element and Chapter 163, Part II, Florida Statutes; requiring the provision of housing for all current and anticipated future residents of the County;
3. encourage the provision of housing targeted at moderate and high income households within residential developments in the Southern Strategy Area and other lower income areas by modifying regulations and administrative standards to provide an incentive for such development;
4. stimulate investment and reinvestment in portions of the community facing declining property values, withdrawal of investments, and declining rate of home-owner occupied housing;
5. promote the creation of residential developments that include a range of housing opportunities through a variety of residential types, forms of ownership, and home sales prices; and,
6. promote the creation of residential developments that include a range of housing opportunities through a variety of residential types, forms of ownership, and home sales prices.

(2) *Definitions.* The following words and phrases, as used in this Section, have the following meanings:

1. *Area Median Income* - An amount determined annually by the U.S. Department of Housing and Urban Development (HUD) based on the estimated median income for a family of four in geographic areas around the country. For purposes of this Ordinance, the Area Median Income is considered the amount determined by HUD for the Tallahassee Metropolitan Statistical Area (MSA).
2.
3. *Market Rate Housing* – for purposes of this section, this term shall mean housing units offered for sale to households whose annual income is greater than 120% of the Area Median Income as adjusted for family size.
4. *Maximum Affordable Housing Sales Price* - The maximum sales price of inclusionary housing unit to an eligible household as established by this section. The maximum affordable housing sales price shall be equivalent to the maximum sales price limits for new single family residences in Leon County established by the Florida Housing Finance Corporation Single Family Mortgage Revenue Bond Program, published annually.
5. *Residential Development* - New construction of for-sale residential units. Accessory apartments, as defined in this Chapter, are not considered "residential development" for the purposes of this Section.
6. *Southern Strategy Area* - The area in the southern portion of the Tallahassee urban area as designated in the Land Use Element of the Tallahassee-Leon County Comprehensive plan wherein new development and investment is encouraged. A map of the Southern Strategy Area is maintained by the Tallahassee-Leon County Planning Department.

(3) *Eligibility.* Except as provided within *Exclusions*, below, new residential shall be eligible for incentives, as provided within this Section so long as the following criteria have been met:

a) the development consists of one house or residential unit to be sold at no less than 150% of the maximum affordable housing sales price; or,
b) the development consists of two or more residential units, wherein no less than 80% of units will be sold at no less than 150% of the maximum affordable housing sales price; and;
c) the development is located within the Southern Strategy Area; or,
d)
e) the development is located within any census tract in Leon County within the Urban Services Area, with a median family income less than or equal to 80% of the median family income for Leon County as a whole, as identified by the most recently released census data.

(4) *Exclusions.* The following shall not be eligible for the incentives provided by this Section:

a) multifamily and multi-unit residential units constructed for rental purposes;
b) residential enclaves consisting of new developments where the median sales price of residential units to be offered for sale is greater than 150% of the maximum affordable housing sales price and the development is designed in such a manner as not to be integrated within the existing residential pattern of the surrounding area;
c) nursing homes, assisted care living facilities, and retirement homes;
d) improvements to existing structures, except when improvements exceed 50% of the existing structural value and will be provided for sale at less than 100% or greater than 200% of the maximum affordable housing sales price, as defined in this Section,
e) dormitories and group quarters, as defined by the US Census of Population and Housing;
f) mobile homes, standard design manufactured homes, and any residential unit type offered for sale within a mobile – or manufactured home park or subdivisions; and,
g) properties located within Census Block Groups with median household income exceeding the area median income.

(5) *Incentives For Providing Market Rate Housing*

Eligible development, as described in this Section shall be eligible for the following incentives:

a) Development Bonuses.

Relaxed Standards for Accessory Apartments. Any single-family residential unit or unit of a duplex residential structure within a development providing market rate housing units may have either an attached or detached accessory apartment. Detached accessory apartments shall be no larger than 900 square feet. Attached accessory apartments shall be no larger than 900 square feet or 10% of the principal residential unit size, whichever is larger.

Accessory apartments may be provided as accessory structures for any principal residential single-family dwelling unit or unit of a duplex residential structure in the development, however, there shall be no more than one accessory structure allowed per single family residential unit or unit of a duplex residential structure. Accessory apartments shall be subject to all applicable zoning district development standards including setback and coverage regulations as provided within this Chapter.

b) Design Flexibility. The developer of market rate housing developments shall be eligible to obtain greater flexibility in development design through application of the following:

1) Choice of Housing Type. Market rate housing units may be provided as single family, duplex, triplex, townhouse, or multi-family residential units and structures, regardless of the zoning district in which they are located.

2) Relaxed Standards for Obtaining a Deviation to Development Standards. This incentive is offered to provide greater flexibility to arrange and accommodate housing units so that more units may be built on site, impacts to environmental features may be avoided, land use compatibility furthered, and the land cost component of the housing costs reduced.

Any application for development approval of a development including inclusionary housing shall be eligible for the reduction or elimination of minimum front yard and side yard setbacks, the reduction of minimum lot size and, the reduction or elimination of buffering and screening requirements internal to the development, as would otherwise be applicable through the application of other portions of this Code.

The developer of market rate housing seeking such deviation(s) to development standards shall submit a request for the deviation(s), along with the development application, to the entity with authority to approve the development application.

Deviations to standards for the reduction or elimination of minimum front yard and side yard setbacks, the reduction of minimum lot size, and the reduction or elimination of buffering and screening requirements internal to the development as provided by this Section shall not be required to comply with requirements of Section 10-1603, of this Chapter for the granting of a deviation. Instead, requests for deviation under this Section shall be subject to demonstrate compliance with the criteria set forth under *[New Section - Inclusionary Housing]*.

Upon a finding in the affirmative, the entity with authority to approve the application shall grant the requested deviation(s).

c) Fees – Exemptions and Reductions.

1) Fees Applied on a Unit By Unit Basis. The developer of market rate housing units shall not be subject to the following development application and permit fees for any and all market rate housing units otherwise applicable on a singular unit by unit or structure by structure basis: building permit and inspection fees, deviations pertaining exclusively for market rate housing units or properties and, driveway and street connection fees. Those fees for which the qualifying developer will not be subject shall be paid by Leon County and funded through the General Contingency Fund for Leon County.

2) Fees Applied on a Development-Wide Basis. Developments providing market rate housing shall not be subject to that proportion of the following development application and permit fees equivalent to the proportion of market rate housing units to be provided within the development to the total number of dwellings units approved for that development: site and development review, subdivision (preliminary plat) application review, deviation requests and, environmental permit fees. That portion of fees for which the qualifying developments will not be subject shall be paid by Leon County and funded through the General Contingency Fund for Leon County.

d) Expedited Review. The developer of market rate housing developments pursuant to this section shall be eligible for expedited development review, however pursuant to Chapter 420.907, *Florida Statues*, such development review shall be less expeditious than that provided for developments providing inclusionary housing as defined within *[New Section - Inclusionary Housing]*. Any application for development approval of a development with market rate housing pursuant to this section shall begin within two working days of submittal. The timeframe for review of such projects shall be in accordance with ordinances and adopted policies. The Director of Development Services shall serve as the County's liaison to expedite the review and approval process. This provision shall apply to site and development plan applications, subdivision applications, environmental permits, as well to individual building permits for market rate housing units.

(6) *Administration of Housing Provisions*

The housing provisions of this Ordinance shall be administered by the Department of Community Development, or their successor in interest. This Department shall be responsible for certifying the eligibility of applicants prior to the issuance of certificates of occupancy or their equivalent for inclusionary units.

The Department of Community Development, or their successor in interest, shall be authorized to provide interpretations regarding the implementation and administration of this Section.

Section 3. CHAPTER X, ARTICLE XI, DIVISION 8, SECTION 10-1603, Leon County Code of Laws, is hereby amended to read as follows:

Section 10-1603. Criteria for granting a deviation from development standards. The entity with the authority to approve, approve with conditions, or deny a site and development plan may grant a deviation under this Section only upon demonstration that:

(i) The deviation will not be detrimental to the public's health, safety, or welfare or to the surrounding properties; and

(ii) There are exceptional topographic, soil, or other environmental conditions unique to the property; or
(iii) There are unusual conditions which are not ordinarily found in the area; or
(iv) The deviation requested would provide a creative or innovative design alternative to substantive standards and criteria; or
(v) The strict application of the requirements of this ordinance will constitute a substantial hardship to the applicant; and
(vi) The granting of this deviation is consistent with the intent and purpose of this ordinance and the comprehensive plan.

Deviations requested pursuant to [Section 10-'*New Section – Inclusionary Housing*'] and [Section 10-'*New Section – Market Rate Housing in Lower Income Areas*'] for the purpose of accommodating the provision of inclusionary housing, shall be exempt from this Section but shall be subject to the criteria established within [Section 10-'*New Section – Inclusionary Housing*'].

Section 4. Presumption of Compatibility and Consistency

Development approved pursuant to this ordinance shall be presumed to be compatible with adjoining development and consistent with those Goals, Objectives, and Policies of the Comprehensive Plan pertaining to residential land use and residential land use compatibility, provided such development complies with all other applicable land development regulations, including environmental regulations, of the County.

Section 5. Monitoring and Periodic Review of the Ordinance

This ordinance shall be monitored to ensure effective and equitable application, with the Department of Community Development (or its successor) required to publish biennial reports analyzing the productivity and impact of the ordinance. The Board shall consider these reports and review and revise the ordinance as necessary; however, at a minimum, the ordinance shall review the ordinance no less than one time within each successive five-year period commencing with the original effective date of the ordinance.

Section 6. Conflicts

All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 6. Severability

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of the Ordinance.

Section 7. Effective Date

This Ordinance shall become effective _____.

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2003.

LEON COUNTY, FLORIDA

BY:_____
Tony Grippa, Chairman
Board of County Commissioners

ATTEST:
Bob Inzer, Clerk Of The Court
Leon County, Florida

BY:_____

Approved As To Form:
Leon County Attorney's Office

BY:_____
Herbert W.A. Thiele, Esq.
County Attorney