

Regulatory & Land Use Planning Issues Affecting Affordable Housing

Part II: Regulatory Reform for Affordable Housing June 10, 2021





AFFORDABLE HOUSING CATALYST PROGRAM

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Florida Housing Finance Corporation



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Webinar Logistics

- All participants are on mute
- Please type in your questions and comments into the question box on the side panel
- We will not identify who has asked a question
- Webinar is recorded
- PPT is provided as a handout
- For follow-up information or problems downloading handouts, please contact glazer@flhousing.org



Agenda

- I. Overview of Florida Housing Data
- II. Local Government's Role in Making Housing Affordable
- III. Basics of Land Use Planning & Affordable Housing
- IV. Best Practices for Regulatory Reform
- V. Utilizing the Affordable Housing Advisory Committee (AHAC)



Before we get into the weeds...

- This is a high-level overview of each of these policies and concepts. Each of these ideas could be an hour-long training.
- These slides are intended to give you some ideas for how to engage with affordable housing best practices locally.
- The work will need to be done locally to understand existing planning policies, development patterns, and community needs.
- For any questions, contact Kody Glazer at glazer@flhousing.org





I. Overview of Florida Housing Data

Regulatory reform starts with local data

- Understanding local housing needs data will help guide regulatory reform for affordable housing
- Look for the following data points to start:
 - Cost burden
 - Shimberg Center's data on surplus/deficits of affordable housing
 - Home sale prices (existing and new homes)
 - Building permits (type of unit, number of units, location)
 - Household demographics (race, income, size)
- For example, knowing that your community has a relatively small household size may encourage you to allow smaller housing types.
- Knowing that your community has the greatest shortage of affordable units at 50% AMI may help you craft incentive programs to this need.



Single Family
Home Sales Way
Up Since the
Beginning of the
Pandemic

Single Family Homes: Pre-Pandemic to Today					
	Total Sales	Paid in Cash	Median Sales Price	Days to Contract	Months of Supply of Inventory
Apr-21	33,264	9896	\$335,526	11	1.1
Feb-20	20,693	5703	\$270,000	49	3.3
Percent Change	61%	74%	24%	-78%	-67%
Florida Realtors April 2021 Single Family Home Sales					



Multi-Family
Owner Sales and
Prices Up Higher
as a Percentage
than Single Family,
but Still Lower
Overall

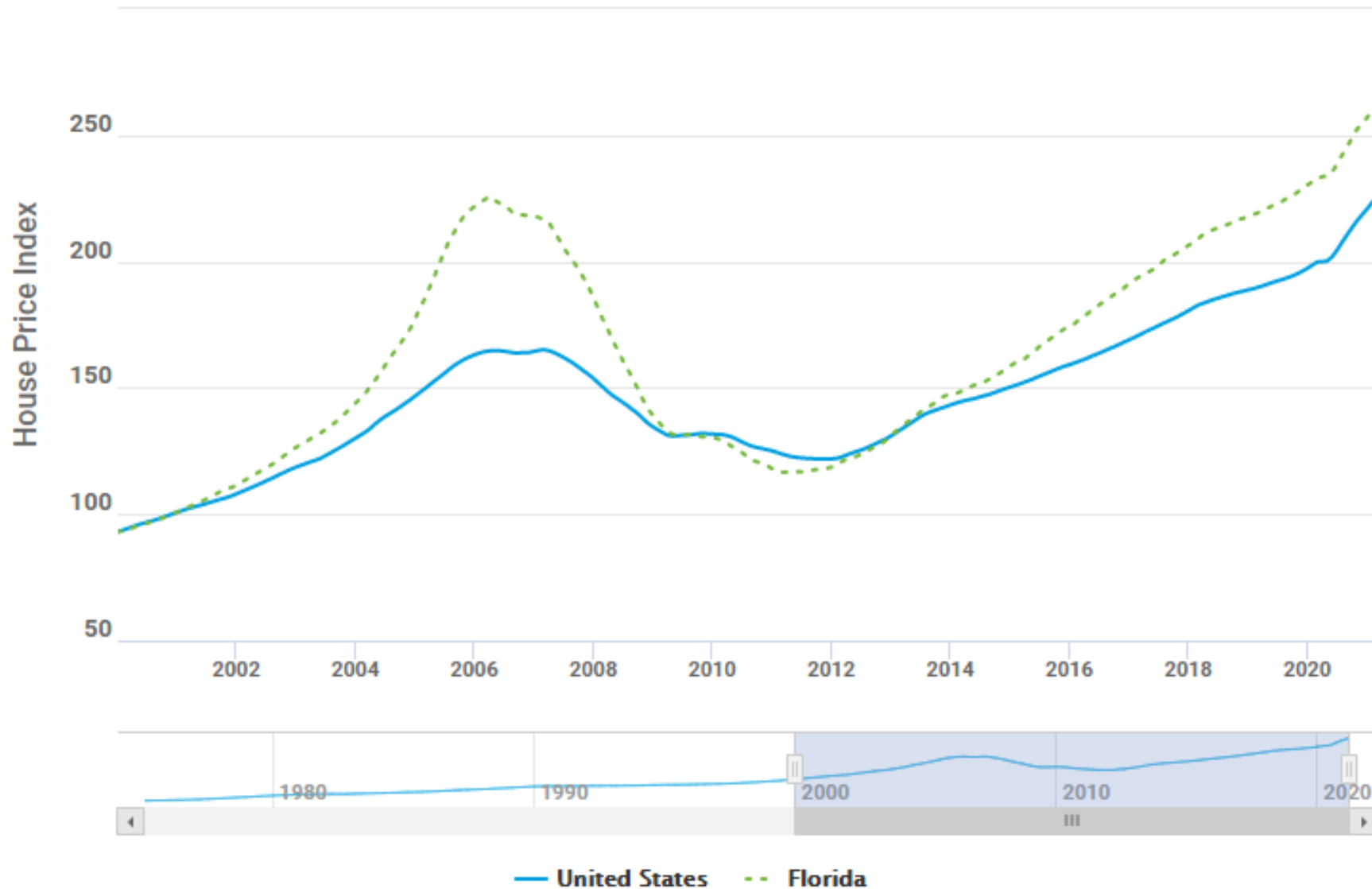
Townhomes and Condo: Pre-Pandemic to Today

	Total Sales	Paid in Cash	Median Sales Price	Days to Contract	Months of Supply of Inventory
Apr-21	17,330	8770	\$250,000	24	2.3
Feb-20	8,842	4690	\$200,000	94	5.4
Percent Change	96%	87%	25%	-74%	-57%

Florida Realtors April 2021 Townhouses and Condo Sales



Freddie Mac House Price Index



Percentage of Cost Burdened Households by MSA (FL) - 2019 EST (Cost Burden Threshold - 30%)

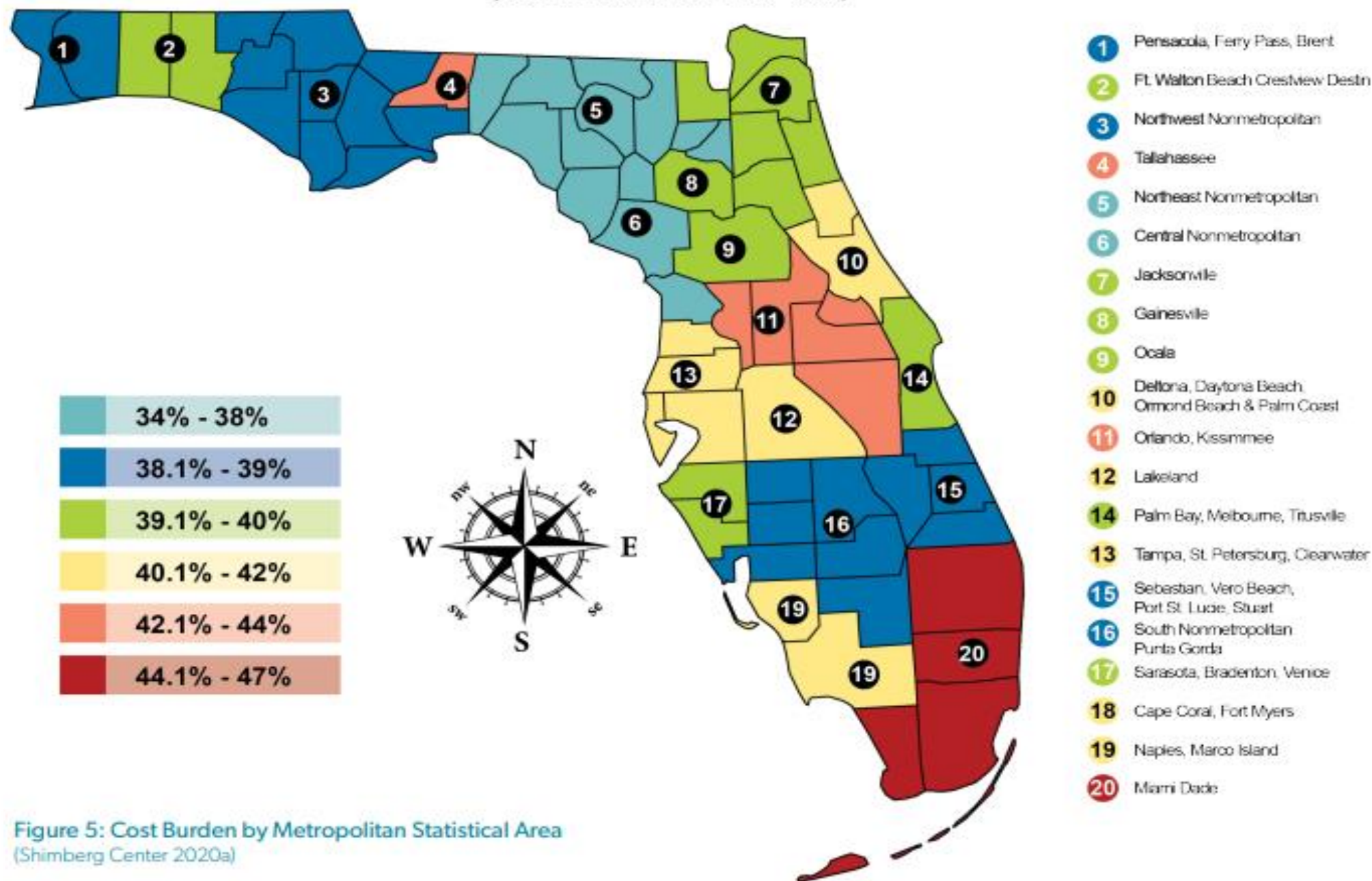
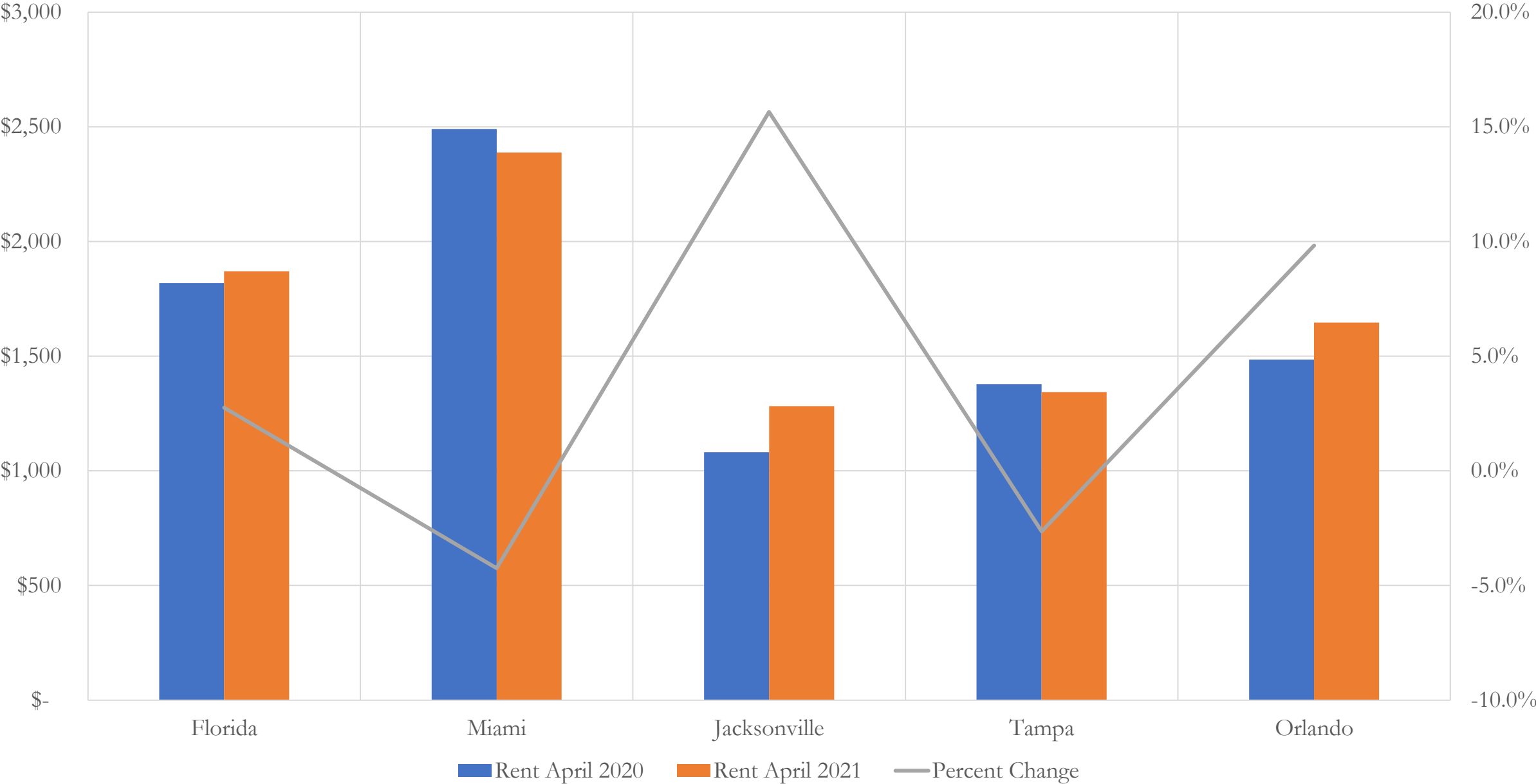


Figure 5: Cost Burden by Metropolitan Statistical Area
(Shimberg Center 2020a)

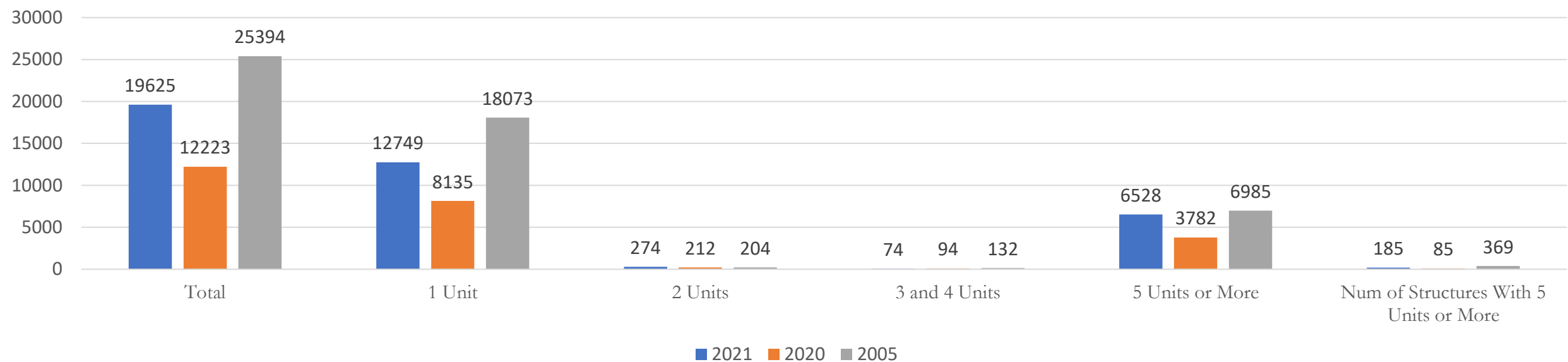
Affordable
housing supply
shortages differ
across the state

Supply/Deficit of Affordable/Available Units by Income				
Geography	0-30% AMI	0-50% AMI	0-80% AMI	0-120% AMI
Gainesville MSA	-3,928	1,874	5,935	12,813
Ft. Lauderdale	-33,335	-65,565	-65,683	-8,852
Daytona Beach MSA	-9,237	-13,124	-6,389	2,357
Jacksonville MSA	-29,100	-36,869	-4,181	13,043
Miami-Dade MSA	-60,193	-109,305	-147,284	-69,818
Orlando MSA	-40,220	-76,534	-39,916	23,900
Tampa MSA	-60,227	-92,640	-31,583	11,499
Tallahassee MSA	-6,081	-3,685	4,503	5,561
Shimberg Center for Housing Studies				

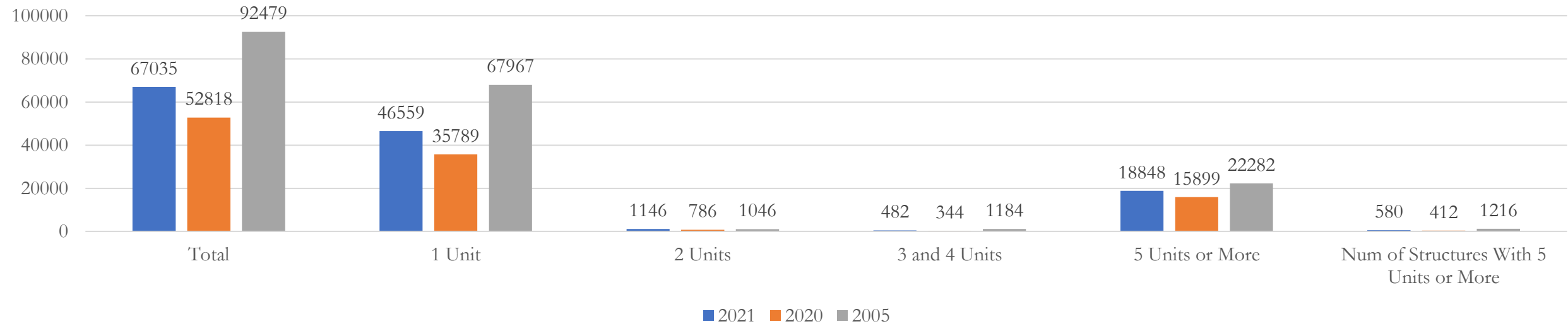
Rental Price Change: Florida and Major Cities



April Permits: 2021, 2020, 2005



Year to Date Permits: 2021, 2020, 2005



Conclusions

- Understanding local housing data is key to shaping local housing policies. In most communities, there is lack of affordable housing for households making up to 80% AMI.
- Florida is currently in a dramatic home price build up and housing supply crunch. While this benefits existing homeowners, renters and new, younger households will have more difficulty become first-time homeowners.
- More housing supply needs to be built to keep up with demand and rising home prices.



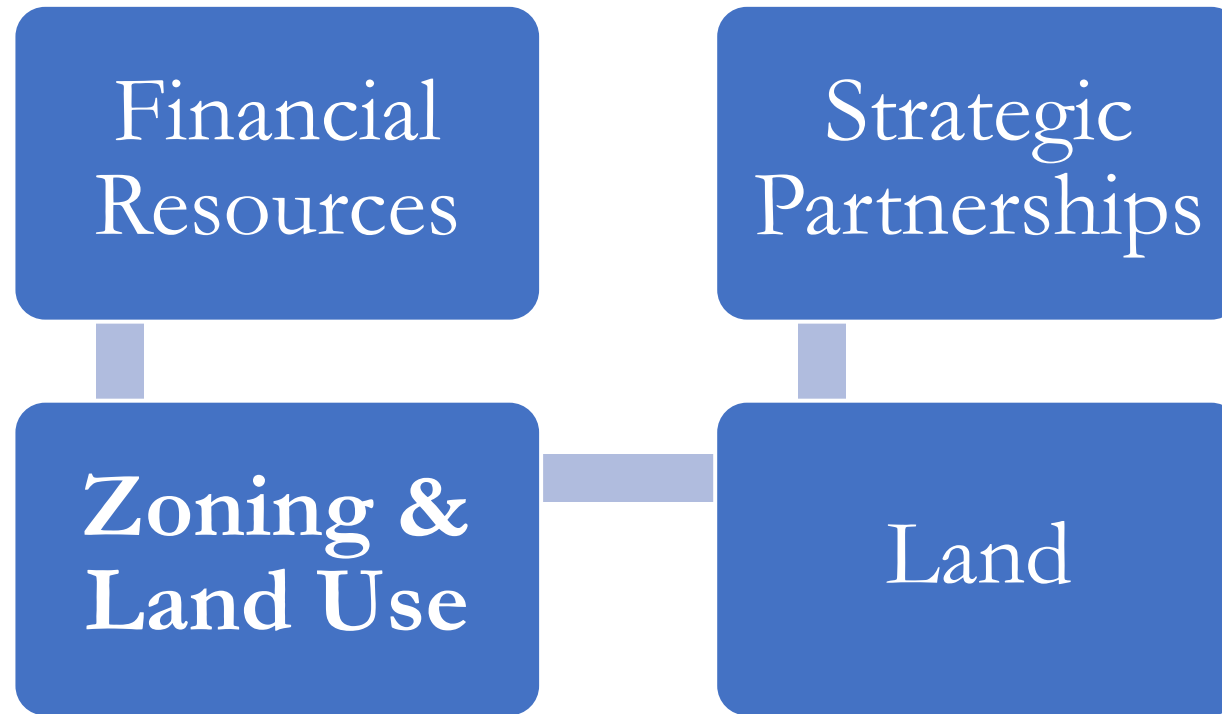
II. Local Government's Role in Making Housing Affordable

Housing Element of the Comprehensive Plan

- Required element of the local Comp Plan. Fla. Stat. § 163.3177(6)(f)(1).
- Requires local governments to plan for the “provision of housing for all current and anticipated future residents” and the “provision of adequate sites for . . . housing for [lower income] families.”
- Local government is not required to build *all* the affordable housing needed in a community, but it is required to create an environment **conducive** for the private sector to produce affordable housing.
- Public sector uses its land use planning and financing tools to ensure the private sector will produce housing that is affordable.
- **Task:** read your local government’s housing element, ask if it is being implemented, and use it as a catalyst for innovative policies



Local Government role in affordable housing



How should local government be involved?

- Local government cannot deed restrict or monitor *every* unit of affordable housing needed in a community long-term.
- Yet, local government can use the land use planning process to **require**, **facilitate**, and **encourage** the production of enough affordable housing units to make a measurable impact on the community.
- A successful comprehensive approach includes
 - Deed-restricted units
 - Preserving and encouraging naturally occurring affordable units (units without subsidy)
 - Boosting housing supply in general



The Three Acts – Land Use Planning for Affordable Housing

1. “Require” – to claim or ask for by right and authority

- Local governments can use their zoning and land use authority to require the production of affordable housing.
- Examples: inclusionary zoning, negotiated development rights, financial resources

2. “Facilitate” – to make an action or process easy or easier

- Local governments can aid the production of affordable housing by facilitating partnerships, lowering development costs, and easing development standards.
- Examples: expedited permitting, zoning flexibility, fee waivers, government-owned lands

3. “Encourage” – to attempt to persuade

- Local governments can encourage market-rate developers to produce affordable units.
- Examples: density bonuses, zoning incentives





III. Basics of Land Use Planning & Affordable Housing

Deed-restrictions? Free market? Both?



- Housing prices are set at whatever the market will bear
- Increasing housing supply alone will not produce **all** the affordable units needed, particularly for ELI and VLI households (up to 50% AMI) and all households in more populated counties
- Consider population growth, housing demand, and housing supply.
- Greater need = more justification for deed restricted housing

Impact of zoning & land use policies on housing

Zoning and land use policies impact the:

- 1) **cost** of development
- 2) **number** of housing units that can be legally produced in a jurisdiction
- 3) **types** of housing allowed
- 4) **location** of different uses
- 5) **infrastructure capacity** of new development
- 6) **willingness** of the private sector to produce affordable housing

Goal: structure land use policies to require, facilitate, and encourage affordable development & to increase housing supply generally



Land use policies to start with for regulatory reform

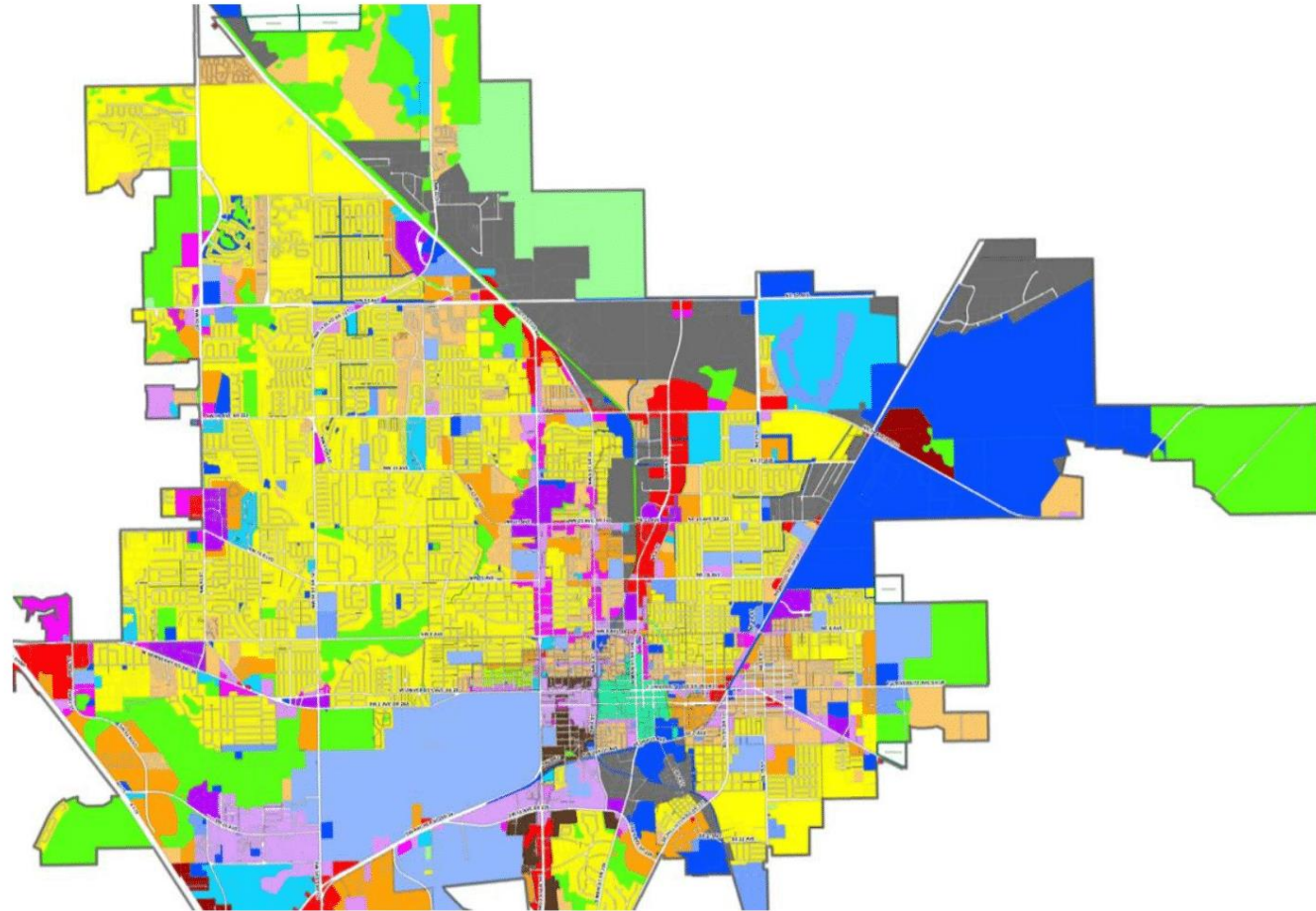
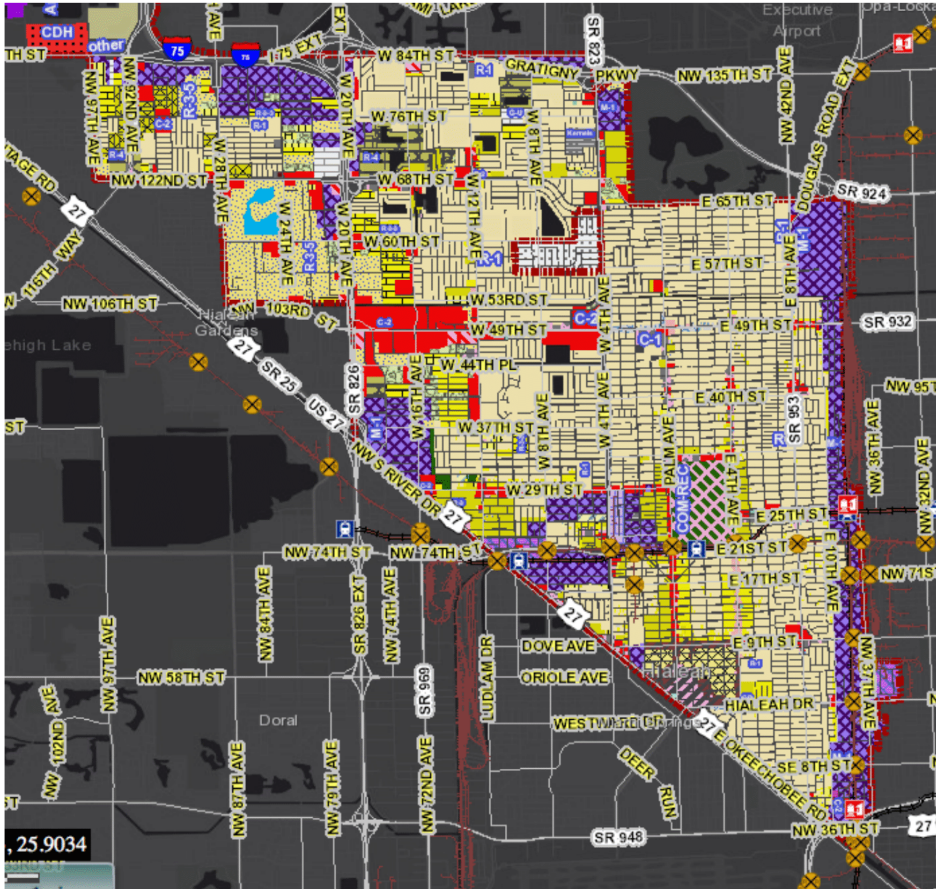
1. Zoning & future land use maps
2. Allowable uses & densities
3. Parking, setback, & lot arrangement requirements
4. Permitting, inspection, & other fees
5. Permitting process
6. Financial incentives & land resources



1. Zoning & future land use maps

- Study zoning and future land use maps to understand community design
- Land use planning documents set a legal cap on the number of housing units that can be developed and the location for different types of housing
- Ask things like:
 - How much/what percentage of buildable land is zoned for low-density, single-family only housing?
 - What is the zoning around transportation corridors, employment centers, and other areas of opportunity?
 - Does our zoning code match community needs for housing?





Yellow is single-family only zoning



Idea: Direct staff to provide yearly analysis of “zone stats”

- Understanding the scope of buildable land dedicated to different uses can help shape affordable housing policy.
- Sample table to use. Include all zone districts and local stats.

Zone	Zone Description	# of Parcels	% of Parcels	Land Area	% of Land Area
R-1	Single-family residential				
R-2	Multi-family residential				
C-1	Low-intensity Commercial				
A-1	Agricultural				



2. Allowable uses & densities

- Understand the allowable housing types and densities in your community's zoning code and where certain housing types are allowed
- This analysis could lead your community to increase densities and allow more flexible housing types to match housing needs
- **Best practices:**
 - Allow ADUs and missing middle housing types (duplexes, triplexes, townhomes, etc.) by right in more areas of the community
 - Allow increased densities around transit and employment for affordable housing developments
 - Promote mixed-use opportunities



3. Parking, setback, and lot arrangement requirements

- Flexibility in these requirements can help lower development costs and ensure that more buildable land is available for housing development.
- **Parking:** Study existing parking requirements and identify areas where standards can be waived or amended for affordable housing units. For example, if on-street parking is available, requiring multiple off-street parking spaces can be burdensome.
- **Setbacks/lot arrangements:** Flexibility in setback and lot arrangement requirements can allow more smaller units to be developed on a single parcel or allow smaller lots to contain homes. Beneficial for “missing middle” and accessory dwelling units (ADUs). Includes standards such as:
 - Setbacks
 - Maximum lot coverage
 - Minimum lot size
 - Open space requirements
 - Zero-lot-line development



4. Permitting, inspection, & other fees

- Study local government fees and identify fees that can be waived or modified for projects certified as affordable
- Impact fees are the main type of fee that may be modified for affordable housing units.
- **Consider:** Charge by square footage rather than by unit type.
- Fla. Stat. § 163.31801(9): local governments may “provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a [local government] provides such an exception or waiver, it is not required to use any revenues to offset the impact.”



5. Permitting process

- Time is money! Assess how long it takes for an affordable development to be approved.
- Tools for facilitating and encouraging affordable housing :
 - Expedited permitting
 - Clearly defining the steps of the process (see House Bill 1059 from 2021 Session)
 - Designate a staff person(s) responsible for shepherding individual projects through the process
 - Whenever feasible, delegate approval authority from public hearing to administrative staff review



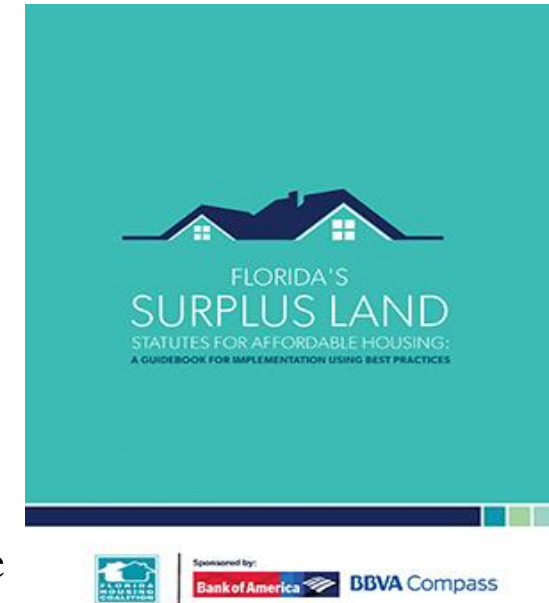
6. Financial incentives & land resources

- Study how your local government uses its federal, state, and local funds for affordable housing, including:
 - State Housing Initiatives Partnership (SHIP)
 - General Revenue
 - Community Development Block Grant (CDBG)
 - Community Redevelopment Agency (CRA)
 - Infrastructure Surtax
 - Bonds
 - Philanthropy



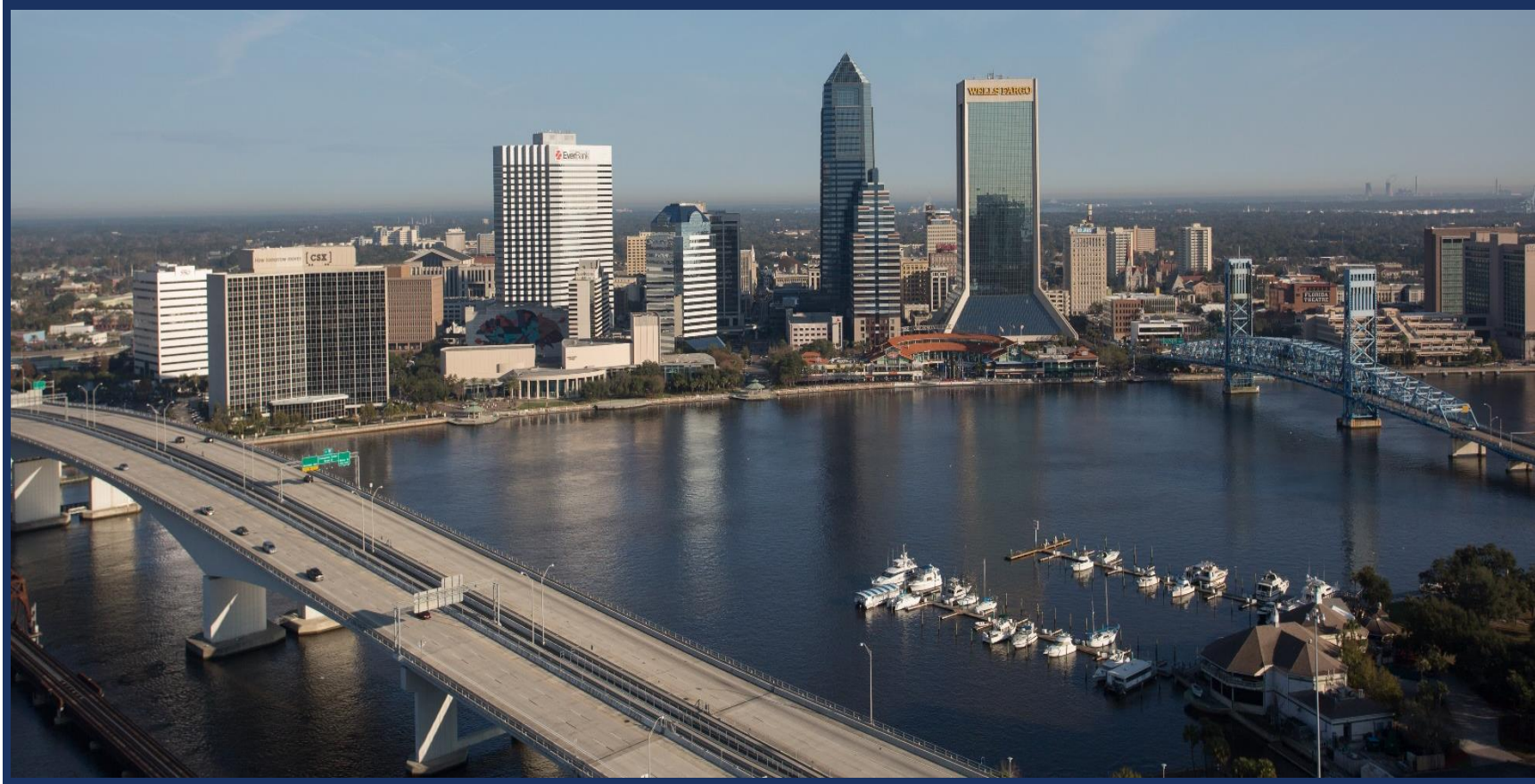
6. Financial incentives & land resources

- Leveraging government-owned land can be a great boon for affordable housing.
- Look at your surplus land policies
 - Fla. Stat. §§ 125.379 and 166.0451 require an inventory of government owned lands “appropriate for use as affordable housing”
 - If it is appropriate for market-rate housing, it is appropriate for affordable housing
- School board land (Fla. Stat. § 1001.43)
- Explore using available funds to purchase land for affordable housing
- Create an RFP for developers to build housing on government-owned land – local government can control outcomes on the land it owns through deed restrictions





Jacksonville's Regulatory Reforms



June 10, 2021

CHANGE

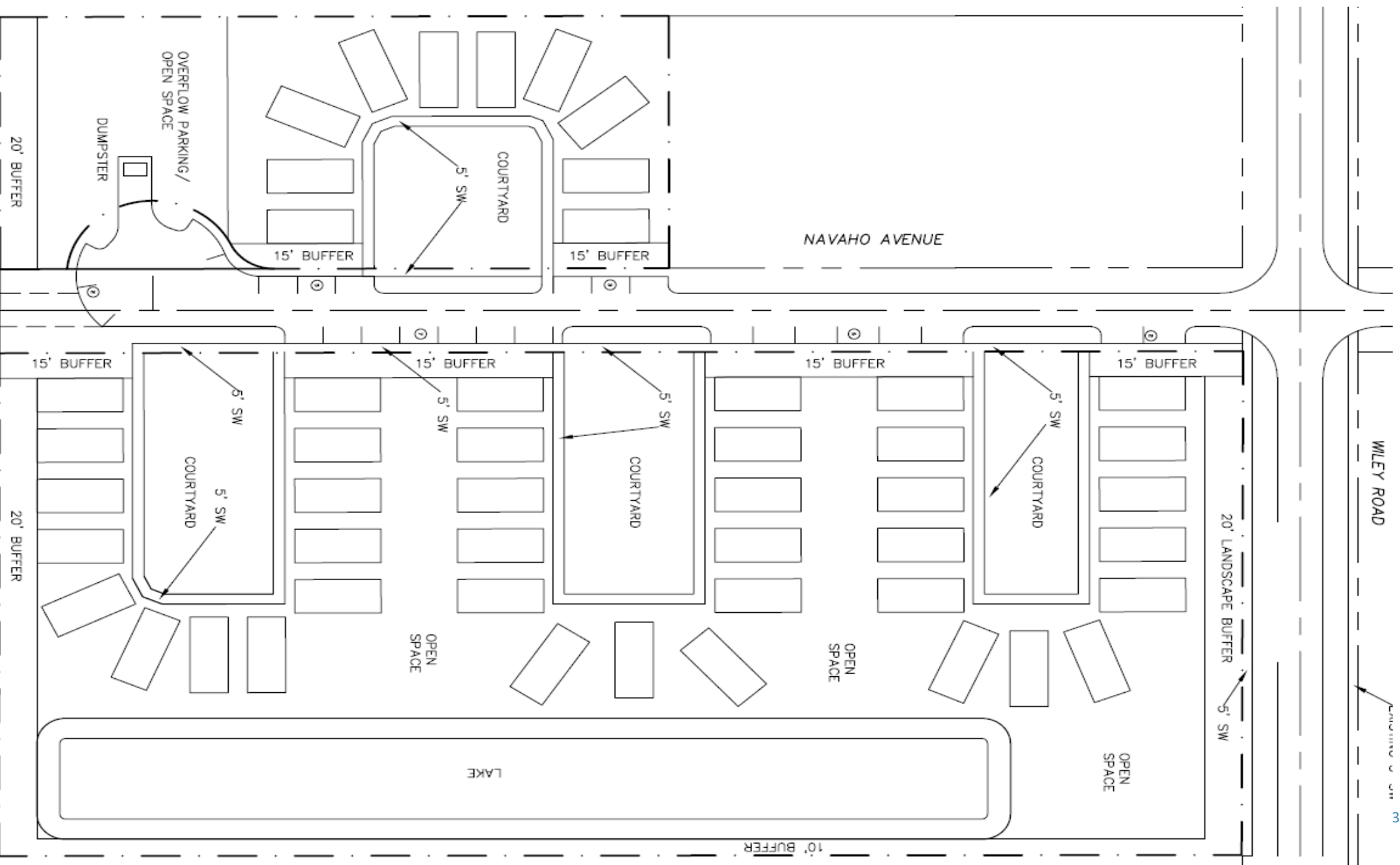
Jacksonville changes:

- Pocket Neighborhoods
- Community Land Trusts
- Tiny Houses
- Small Lot Subdivisions
- Accessory Dwelling Units

POCKET NEIGHBORHOODS

Does the code allow for them?

- Is the land held in common ownership?
- Houses become condos or rental
- Tiny houses fee simple not allowed
- Enter the Planned Unit Development
- A path to fee simple pocket neighborhoods











COMMUNITY LAND TRUSTS

How to support them?

- Amend our property disposition ordinance to include non-profit community land trusts to be on the same level as a city agency.
- Work with local non-profits to establish CLT
- Nurture and financially support CLT start-up

TINY HOUSES

Does the code allow for them?

- Currently no; the code sets a minimum size of 850 sq ft
- Set to adopt State appendix for tiny houses
 - Allow by right as a principle structure in RMD-A
 - Allow by right as an accessory dwelling unit in RLD-X
- Require Planned Unit Development or;
- Small lot subdivisions
 - Similar to town home criteria
 - Similar to our test case pocket neighborhood

ACCESSORY DWELLING UNITS

Comprehensive Plan

- Permits accessory dwelling units by right in LDR
- Established that accessory dwelling units do not count against density caps

City Ordinance

- Permits accessory dwelling units by right in RLD zoning district.
- Establish criteria based on historic districts.
 - Located behind principle structure
 - Visual relationship to principle structure
 - Limited to 25% of principle structure or 750 sq ft, whichever is less
 - Max height is limited to principle structure height



Questions?



Florida Housing Coalition – Regulatory Reform for Affordable Housing

Housing Goals

✓ Safe

✓ Decent

✓ Affordable



Current Market Conditions

Rising Costs

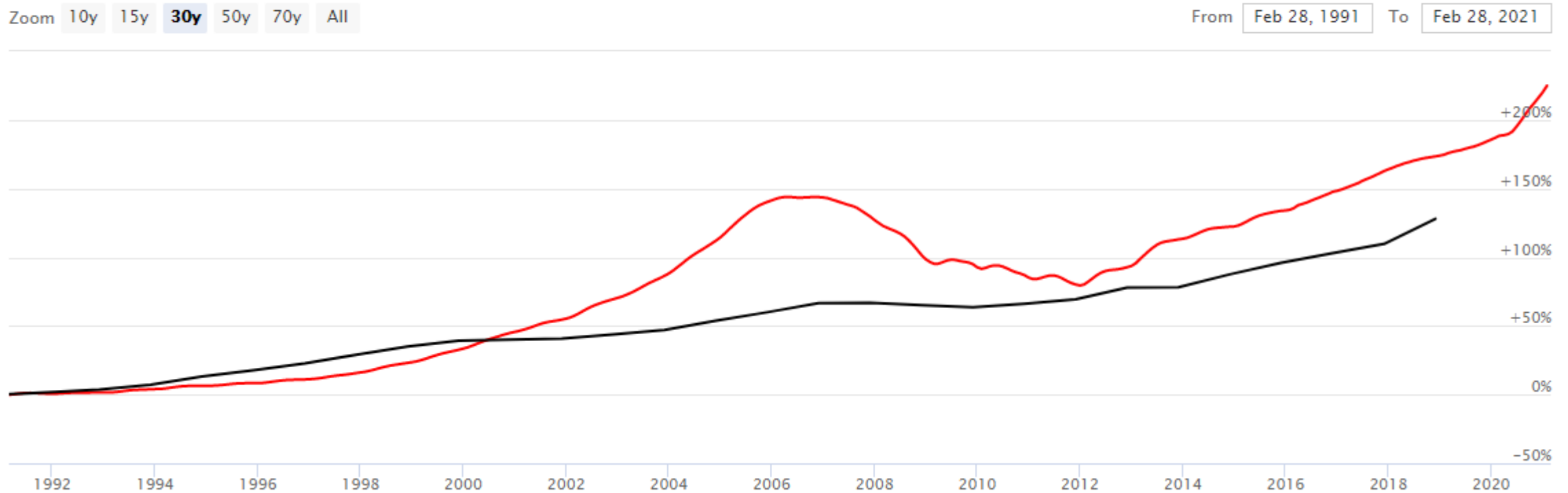
Data released in April from the National Association of Home Builders (NAHB) reports the cost to build a single-family home has surged by more than **\$36,000** per home and **\$13,000** per apartment since April of 2020



Incomes Are Not Keeping Pace

Home Price vs. Median Household Income (US)

Case-Shiller Home Price Index vs. US Median Annual Income



Case Study: Impact of Design Standards on Cost to Construct Affordable SF Homes

Elevated Front Entry

Enhanced Design Requirement

The front porch must be elevated at least 12 inches above the abutting finished grade level as measured abutting the porch at the front entry.

Effects of Enhanced Requirements

Monolithic Slab vs Stem Wall Foundation

The added cost for block, concrete, several yards of fill dirt and the tractor work for compaction

Elevated Front Entry

Adds approximately \$4,000 to \$8,000 in cost per home



Fenestration & Transparency

30% Fenestration / 50% Transparency

20% Fenestration / 50% Transparency



Front Elevation = 240sqft	
30% Fenestration / 50% Transparency	20% Fenestration / 50% Transparency
72sqft Fenestration / 48sqft Transparency	36sqft Fenestration / 24sqft Transparency
3 Windows @ \$600 per = \$1,800.00	2 Windows @ \$600 per = \$1,200.00
Potential Cost Savings (\$600 x 60) = \$36,000.00 Annually / Savings over 5 years = \$180,000.00	

Wall Composition

Design Requirement

Building materials shall be appropriate to the selected architectural style and **shall be consistent throughout the structure**

Effects of Requirement

Allowing a stucco primary façade with struck block secondary façade allows for flexible options and a cost savings of approximately \$2,500 per home vs consistent stucco.

Sidewalks to Nowhere!

Sidewalk costs can range between \$1,000 to upwards of \$3,000+ depending on the sqft needed. Often when redeveloping infill lots in established neighborhoods, requiring 50ft of sidewalk not only adds additional costs, it also creates a liability/hazard directly in front of the home



Total Added Costs

Zoning Requirements	Addition Costs per Home
Elevated Front Entry	\$4,000 - \$8,000
Fenestration and Transparency	\$600 (per window)
Wall Composition	\$2,500
Sidewalk	\$1,000 to \$3,000
TOTAL ADDITIONAL COSTS	\$6,000 to \$15,000 per home

What Does this Mean for a Nonprofit Developer

- Higher Costs for Homeowners
- Greater Subsidies Required
- Reduced Capacity to Build
- Increased Regulatory Hurdles



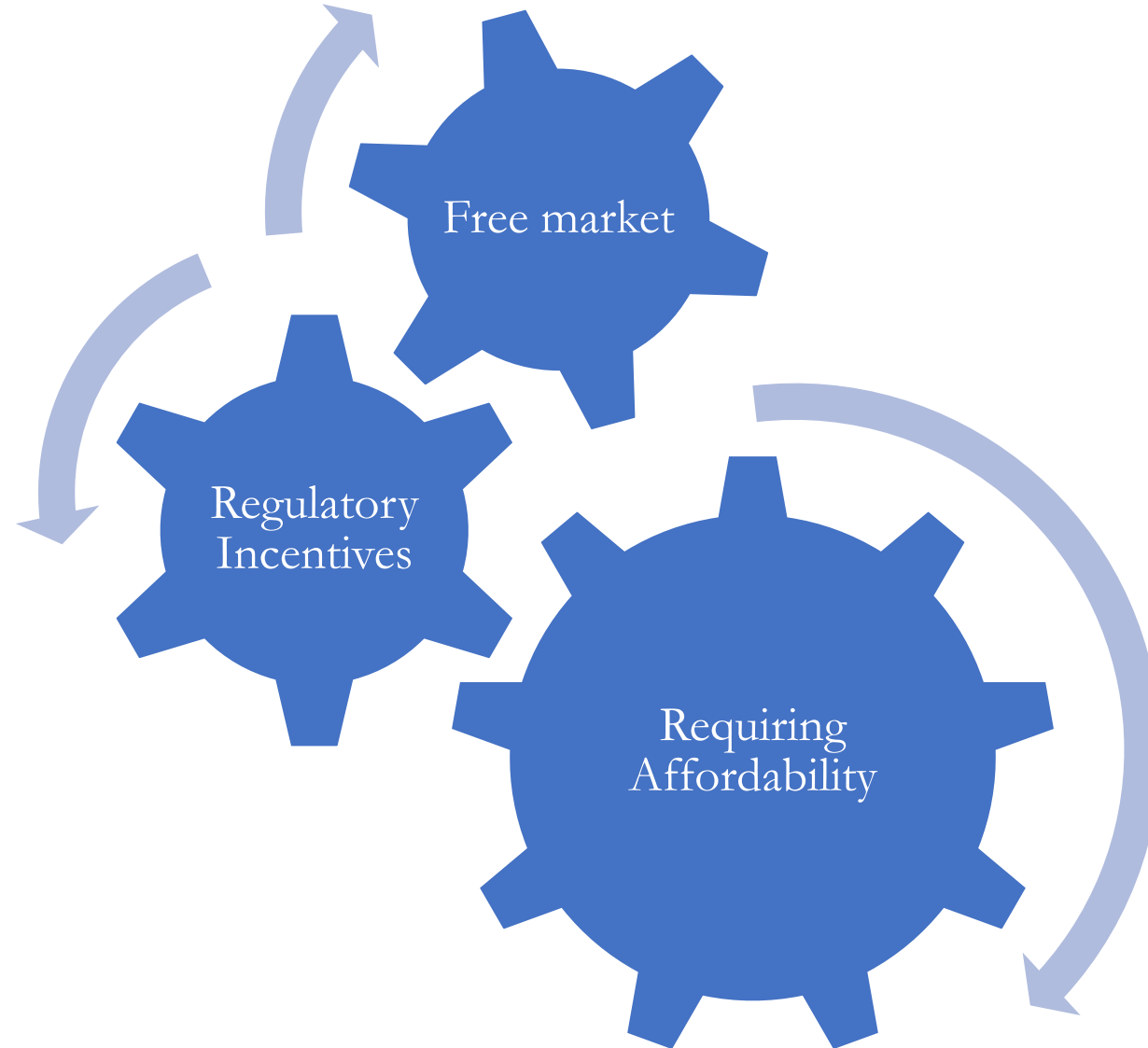
IV. Best Practices for Regulatory Reform

Study first, solutions second

- Explore local data and the land use policies explained in this training
- Then, using this knowledge, identify where policies need to be improved to require, facilitate, and encourage affordable housing development
- For example, if your community has a housing shortage of affordable units serving up to 80% AMI and you know your zoning code caps the number of legal units below the amount needed to meet this gap, start with a density bonus and incentive program for units serving up to 80% AMI
- Similarly, if you know your design standards unreasonably increase the cost of development by \$10k, amend your design standards



The regulatory balancing act



The Three Acts - Revisited

- You may only want to require affordability for developments seeking a substantial re-zoning or in prime opportunity areas. To encourage affordability, you may lower lot size requirements City-wide in hopes of encouraging smaller, more affordable units over time.

Require

- Large-scale development (100+ units)
- Substantial re-zonings
- Near transit & employment centers
- Projects seeking public subsidy

Facilitate

- Non-profit sector
- Expedited Permitting
- Administrative approvals > public hearings
- RFP for government-owned land

Encourage

- Allowing smaller housing types by right
- Lowering minimum lot sizes
- Density bonus & incentive program

Don't give away too much without affordability in return

- Just because local government makes it cheaper to build or allows more units to be built, **that does not mean that the new units will actually be affordable** (especially to households making up to 80% AMI)
- Again, housing prices are set at whatever the market will bear
- There have been examples of local governments that amended their zoning codes to make them more flexible, gave too much away as-of-right, and now cannot require affordability through the land development code



Preserve the greatest incentives for deed-restricted housing

- Relaxing development standards to facilitate more market-rate housing supply will not produce all the affordable housing needed
- Preserve the greatest zoning benefits for deed-restricted housing; developments you **know** will be affordable long-term
 - Density bonuses
 - Substantial re-zonings
 - Impact fee waivers



Incentive example: Impact fee waivers

- Florida law allows local governments to waive impact fees for affordable units
- However, local government will likely need a cap on how many impact fees in total can be waived
- Since an impact fee waiver is a limited resource, **preserve the waiver for units that will be affordable long-term** and require that the impact fee waiver actually results in lower housing prices
- **Consider:** provide impact fee waivers only to nonprofit developers with a track record of providing long-term affordable housing.



Increasing density – as a bonus or by-right?

- Increasing density is one of the most valuable bargaining chips a local government has to offer
- Before increasing densities across the board as-of-right, **strongly consider** conditioning density increases on the provision of affordable housing
- Consider density minimums
- Don't give away too much!



Allowing missing middle housing

- More communities are adopting ordinances to allow more accessory dwelling units, duplexes, triplexes, townhomes by-right. This is good!
- Keep in mind: just because a unit is smaller, that does not mean that it will be affordable to households up to 80% AMI
- **Consider:** Allow more housing types by-right and pair other land use tools to facilitate the affordable missing middle units
 - Expedited permitting for affordable duplexes
 - Fee waivers



Inclusionary zoning (IZ)

- Land use policy that requires certain market-rate developers to set-aside a specified number of affordable units within a market-rate development
- Under state law, local government must “fully offset all costs” associated with required affordable units under an IZ ordinance
- Partner with a non-profit organization that can manage the affordable units; this takes the obligation off the market-rate developer



Seeking public dollars? Require affordability

- If a developer seeks public dollars for things like infrastructure improvements, this is an opportunity to require affordable housing in return
- For example, if a large-scale developer (100+ units) seeks public dollars for wastewater infrastructure, roads, or other infrastructure needs, condition the public support on the developer setting aside x% of units as affordable housing
- This voluntary, negotiated development process can ensure that public dollars support public goods in the form of affordable housing



Final thoughts

- There is not one way to go about regulatory reform for affordable housing – it requires knowing local data and local policy.
- Condition the most favorable zoning benefits on housing affordability.
- **The key is to be able to adapt.** If local reforms are producing more units, but those units are not affordable, be willing to make changes.





V. Utilizing the Affordable Housing Advisory Committee (AHAC)

Affordable Housing Advisory Committees (AHAC)

- Required for every SHIP jurisdiction that receives above \$350,000 in a fiscal year
- 8-11 members representing all aspects of the housing industry
- Each AHAC produces an **annual** report which includes recommendations on implementing a variety of affordable housing incentives
- Can engage in other affordable housing activities under City/County direction



The AHAC can be a catalyst for regulatory reform

- Utilizing its collective expertise from all aspects of the local housing industry, the AHAC can produce actionable recommendations to increase the affordable housing stock
- Key considerations:
 - Recruit active members of the housing industry who will be engaged throughout the process
 - Engage key housing & planning staff to educate members on existing policies and local housing data
 - Take time to review existing policies and seek out new strategies
 - Encourage input from all AHAC members
 - Implement the recommendations in the AHAC report



Local Perspective: How to use the AHAC as a tool for good

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<https://register.gotowebinar.com/register/6971231788987698702>

Regulatory & Land Use Issues Affecting Affordable Housing Workshop #3

When: Wednesday, June 23 @ 2pm-3:30pm

Topics Covered:

- How to incorporate disaster resiliency in affordable housing planning
- 2021 Resiliency Legislation
- Mitigation housing strategies
- Creation of a Social Vulnerability Index

FLORIDA HOUSING COALITION PUBLICATIONS

Access these valuable resources and more under the Publications tab at Flhousing.org

Housing News Network Journal

Florida Home Matters Report

Accessory Dwelling Unit (ADU) Guidebook

Adaptive Reuse of Vacant Rentals

Affordable Housing Resource Guide

Affordable Housing Incentive Strategies

CLT (Community Land Trust) Primer

CLT Homebuyer Education – Teacher’s Guide

CLT Homebuyer Education – Buyer’s Guide

Community Allies Guide to Opportunity Zones

Community-Based Planning Guide

Creating a Local Housing Disaster Recovery

Creating Inclusive Communities in Florida

**Credit Underwriting Guide for Multi-Family
Affordable Housing in Florida**

**Developing & Operating Small Scale Rental
Properties**

**Disaster Management Guide for Housing
Landlord Collaboration Guidebook**

PSH Property Management Guidebook

Residential Rehabilitation Guide

SHIP Administrators Guidebook

Surplus Lands Guidebook

**Supporting Households Moving Out of
Homelessness**

Using SHIP For Rental Housing



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