

Board of County Commissioners Policy Alachua County, Florida

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CONVEYANCE OF COUNTY PROPERTIES AND SURPLUS LANDS

Purpose:

To establish the policy and process for Alachua County to divest itself of County owned real property that is not needed for County purposes, to prepare an inventory list of all real property that is appropriate for use as affordable housing, and to convey or donate real property that is surplus or that is appropriate for affordable housing. An additional purpose of this Policy is to adopt best practices for surplus land programs. The Board of County Commissioners of Alachua County (the "Board") does not intend for this policy to preempt, limit, or restrict the County's ability to convey property pursuant to any other method authorized by Florida Law.

Policy:

It is the policy that real property, whether improved or unimproved, that is owned by Alachua County, but is not needed for County purposes, may be returned to a beneficial use and to the tax role. In conveying or donating real property owned by Alachua County, the Board will consider the property's value, the public purpose, and the best interests of the County. All conveyances of County owned real property must be approved by the Board.

References:

Florida Statutes (F.S.), Section 197.502
Florida Statutes, Section 125.35
Florida Statutes, Section 125.379 (2023)
Florida Statutes, Section 125.38
Florida Statutes, Section 197.592
Alachua County Code, Chapter 22, Article VI

Definitions:

The following definitions shall apply to the interpretation and enforcement of this Policy:

Affordable Housing – means the monthly rent and utilities, mortgage payments, and homeowners association fees, including taxes and insurance do not exceed 30% of

that amount which represents the percentage of the median annual gross income for the households as indicated in Sections 420.907, Florida Statutes, as per the SHIP Local Housing Assistance Plan (LHAP).

County – Alachua County, FL or the Alachua County Board of County Commissioners.

~~*Heirs' Property* – type of tenancy in common that generally occurs when a property owner passes away leaving more than one owner (family members of the decedent) with undivided, fractional interest in real property.~~

Housing Program Manager - an employee of Alachua County who is responsible for working with and coordinating the Alachua County housing programs and related activities. In absence of a Housing Program Manager, this will be the County employee designated by the County Manager for this position.

Immediate Prior Owner – person or the estate of the person who was record owner of a property immediately prior to when the County acquired such property.

Non-profit Housing Organization (NHO) – entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code that (a) is registered in Florida or is otherwise authorized to do business in the State of Florida, and (b) has a purpose or mission of providing housing to persons or families that is affordable or is for extremely-low-income, very-low income, and/or low-income persons, as defined in F.S. §420.0004 (2022).

Real Property – land, buildings, fixtures, and all other improvements thereto.

Real Property Coordinator (RPC) – an employee of Alachua County who is responsible for working in all phases of real property acquisition and disposal for the Public Works Department and other County uses, as directed. In the absence of a Real Property Coordinator, this will be the County employee designated by the County Manager for this position.

Workforce Housing – means a product of economic development that supports employees, business owners, and construction and housing industries by the creation and preservation of housing built for low to moderate income workers seeking to work in the community in which they live.

Procedures:

I. Surplus Property and Listing.

1. The RPC shall compile a Property List of all real property that is owned by Alachua County, whether acquired by purchase, donation, escheatment, or otherwise. The Donation Policy, as may be amended by the Board, is applicable to the donation of real property to the County.

2. When a property escheats to the County for non-payment of ad valorem taxes and it is determined that the escheated property is located within the boundaries of an incorporated municipality, the property may be conveyed to the municipality pursuant to F.S. §197.592(3).
3. When a property on the Property List is not located within the boundaries of an incorporated municipality and the property is not being used by the County, the RPC will assemble an information package for the certain property as proposed Surplus Property, including information such as the address (if any), legal description, location, lot size, existing improvements, estimated value, zoning, and land use.
4. The RPC will forward the proposed Surplus Property List and information packages to all Alachua County departments, divisions and offices, including but not limited to Alachua County Public Works and Alachua County Forever by way of Alachua County Land Conservation, to determine whether they have any potential current or future uses for any of the properties on the List.
5. If any County department, division, or office, expresses an interest in a certain property on the Surplus Property List, that certain property shall be retained by the County for potential use by and for that department, division, or office. If no County department, division, or office expresses an interest in a property on the List, the property shall be evaluated by the RPC and the Housing Program Manager to determine whether it is appropriate for use as affordable housing, as set forth in section II below.
6. All other properties not retained by the County for County use or found not appropriate for affordable housing shall be disposed of as 'Surplus Property'. The RPC shall submit the proposed Surplus Property List to the Board, with background information on each property. The County Manager or his or her designee may make a recommendation to the Board regarding the designation of the properties as 'Surplus Property'. The Board shall consider the recommendation and background information and adopt a resolution determining which of the properties, if any, are Surplus Properties. In addition, the Board will within the same resolution set a minimum reserve bid for the surplus properties. Any and all proceeds from the conveyance of 'Surplus Property' will be placed into the Alachua County Affordable Housing Trust Fund. Declaring property as Surplus Property is a discretionary act of the Board. Surplus Property may be disposed of in any manner permitted by State of Florida or local law.

II. Procedure for determination of Appropriate for Affordable Housing.

1. The RPC and Housing Program Manager will do an initial evaluation of the proposed Surplus Property List and prepare a separate inventory list of the properties located in Alachua County, or any dependent special district within its boundary, that the County holds fee simple title and which are appropriate for use as affordable housing. In accordance with Section 125.379, Florida Statutes, as may be amended, this proposed 'Affordable Housing Inventory List' must include the address and legal description of each such real property and specify whether the property is vacant or improved. The proposed Affordable Housing Inventory List will be presented to the Affordable Housing Advisory Committee. By October 1, 2023, and every year thereafter, a proposed Affordable Housing Inventory List will be presented to the Board at a public hearing. At the public hearing, the Board will review the proposed list and adopt a resolution that includes the adopted Affordable Housing Inventory List. The Affordable Housing List adopted by the Board will be made publicly available on the County website. The properties on this adopted Affordable Housing Inventory List are no longer considered to be Surplus Property.
2. Florida law does not define what is 'appropriate for use as affordable housing'. Therefore, the Board directs that the following factors or criteria be considered when determining if property is appropriate for use as affordable housing:
 - a) Size.
 - b) Developable/buildable for residential purposes.
 - c) Environmental conditions.
 - d) Public water and sewer or existing well and septic tank on the property.
 - e) Legal access to a public road.
 - f) Proximity to public transportation.
 - g) Opportunities for consolidation with other substandard parcels or landlocked conditions.
3. The following properties, lots, or parcels will not be considered as appropriate for use as affordable housing:
 - a) Property is used or previously used for right-of-way, retention pond, or a stormwater system.
 - b) Unless authorized by law, property acquired by eminent domain (see F.S. §73.013).
 - c) Property that has been determined by the Alachua County Environmental Protection Department or a state or federal agency to be dangerous or unsafe for habitation.
 - d) Property that is located in floodplain or FEMA flood zone.

4. The properties identified as appropriate for use as affordable housing, which may include Workforce Housing, on the Affordable Housing Inventory List adopted by the Board (hereinafter referred to as “Eligible Properties”) may (in accordance with F.S. 125.379) be used for Affordable Housing through a long-term land lease requiring the development and maintenance of Affordable Housing, offered for sale and the proceeds used to purchase land for the development of Affordable Housing or to increase the local government fund earmarked for affordable housing, or sold with a restriction that requires the development of the property as permanent affordable housing, or donated to a Nonprofit Housing Organization (NHO) for the construction of permanent Affordable Housing. Alternatively, the County may otherwise make Eligible Properties available for use for the production and preservation of permanent affordable housing. The procedure for conveyance of Eligible Properties is in section III below.
5. The inventory list of the Eligible Properties shall be made publicly available on a page on the County’s website.

III. Procedure for Conveyance of Affordable Housing Eligible Properties.

Eligible Properties owned by Alachua County will be conveyed pursuant to the procedures set forth in this section, at the discretion of the Board:

1. County Owned Affordable Housing Set-Aside.

The County Manager or the Director of Community Support Services has the authority to request the Board at a public meeting ‘set-aside’ Eligible Properties that are owned by the County and that are appropriate for County use as affordable housing. This determination to set-aside may be before, during or after the adoption of the Affordable Housing Inventory List. Those on this set-aside list are intended to continue to be owned by the County. The County may use these set-aside properties to create or sustain affordable housing or workforce housing projects, or may be used for affordable housing through a long-term ground lease requiring the development and maintenance of affordable housing, or for purposes of a community land trust.

The RPC or Community Support Services Director may take an agenda item to the Board at any time requesting a resolution to remove an Eligible Property from the set-aside or Affordable Housing Inventory List. The agenda item will provide the Board with the reason for the requested removal.

2. Property Escheated to the County.

If property was acquired by the County through escheatment, an Immediate Prior Owner(s) of ~~Heirs' the p~~Property may provide Alachua County Community Support Services, Attn: Housing Program Manager with a written request to obtain the property. The request must include, at a minimum: (a) name and address of the Immediate Prior Owner(s) interested in acquiring the property and their relationship to the last record owner of the property, (2) legal description of the property, (3) name and contact information of any other known Immediate Prior Owner(s), (4) intended use of the property, (4) facts that may be considered a hardship or any other relevant information to explain why the taxes were not paid, and (5) an offer to pay an amount equal to all taxes, including municipal taxes and liens, if any, which had become delinquent, together with interest and costs as provided under by law. The request will then be placed on a public meeting agenda of the Board for consideration. The Board may agree to convey the property to the Immediate Prior Owner(s) under the provisions of F.S. §197.592, subject to the payment as offered. Requirements for competitive bidding do not apply to this section. If the escheated lands have not been assessed for taxes for the current year the Immediate Prior Owner(s) shall pay, in addition, the taxes for the current and omitted years, the latter amount to be determined by applicable millage for the omitted years and based on the last assessment of the escheated lands.

3. Non-profit Housing Organizations.

- a) The Housing Program will maintain a list of Non-profit Housing Organizations (NHO) whose place of business is in Alachua County, Florida ("local NHOs"). Annually, the Housing Program will provide a copy of the adopted Affordable Housing Inventory List to the local NHOs via e-mail or U.S. Mail. The list will also be publicly available on the County's website.
- b) If any NHO (whether local NHOs or not) is interested in obtaining Eligible Properties for the purpose of construction of permanent Affordable Housing or Workforce Housing, the NHO must first send a written request to Alachua County Community Support Services Attn: Housing Program Manager which includes a description of the Eligible Property requested and a description of the NHO's proposed use for such Eligible Property. If the NHO's proposed use will serve Eligible Clients (as defined below), the request will then be brought to the Alachua County Affordable Housing Advisory Committee (AHAC) for review and recommendation to the Board. The Housing Program Manager will work with the County Attorney's Office to prepare an Affordable Housing Partnership Agreement between the County

and the NHO. The following items will then be submitted to the Board in an agenda item for consideration of conveyance of the Eligible Property to the NHO: (a) NHO's request with the NHO's proposed use, (b) proposed Affordable Housing Partnership Agreement, (c) identifying information regarding the Eligible Property, and (d) the recommendation of the AHAC. All conveyances of County owned eligible property must receive approval by the Board.

- 1) *Eligible Clients.* The Board has defined what it considers to be Affordable Housing. As a result, the Board will consider whether the NHO's request for an Eligible Property will be used for permanent Affordable Housing to serve clients of the following populations: **Area Median Income of 50 % or less** ("Eligible Clients")
- 2) *Conditions/Restrictions.* The Board will impose conditions or restrictions on the transfer of title of each Eligible Property to an NHO, which will be set forth in an Affordable Housing Partnership Agreement, for the purpose of ensuring the housing will remain Affordable Housing or Workforce Housing for a determined period of time. The following conditions on the transfer may be imposed:
 - i. The NHO or its authorized agent will, at NHO's sole costs and expense, build a dwelling for permanent Affordable Housing or Workforce Housing on the Eligible Property within 2 years of the date of the County deed (otherwise may be referred to as the date of conveyance) of the Eligible Property to the NHO.
 - ii. The NHO will ensure that the Eligible Property remains available for Affordable Housing or Workforce Housing purposes for a period of 10 years of the date of the County deed to the NHO. The NHO may convey the property to an Eligible Client. However, the deed to an Eligible Client shall provide that in the event the Eligible Property is (1) foreclosed or (2) used for something other than affordable housing within 10 years from the date of conveyance, then all right, title and interest in the property shall automatically revert to Alachua County.
 - iii. In the event a reverter clause is not accepted by the mortgagor, the NHO will place a restriction on the property or on the deed to ensure the that Eligible

- Property is used for Affordable Housing or Workforce Housing purposes.
- iv. If rented, the NHO will ensure that the Eligible Property remains available for rent by Eligible Clients for a period of 10 years of the date of the County deed to the NHO. It is the responsibility of the NHO to determine eligibility of clients to ensure they are Eligible Clients.
 - v. For a period of 10 years from the date of conveyance from the County, the NHO will covenant not to sell or transfer title to the Eligible Property to any non-Eligible Client or For-Profit Organization. If a NHO violates this provision, then all rights, title and interest in the property shall automatically revert to Alachua County.
 - vi. If the NHO is unable to locate an Eligible Client or otherwise request a modification of time requirement in the Affordable Housing Partnership Agreement, the NHO may submit a written request for a modification of the Partnership Agreement to be considered by the Board.
- c) If two or more NHOs are interested in acquiring the same Eligible Property, the Board will base its decision, and/or ranking, for conveyance of the property to a NHO based upon the proposed use of the Eligible Property. If the first ranked NHO withdraws its request or does not proceed to acquire the Eligible Property within a reasonable time after the Board's approval, as determined by the County Manager or designee, then the Housing Program Manager will notify the next NHO in order that it has been selected instead of the other.
- d) If no NHO expresses an interest in an Eligible Property within 60 days after the local NHOs are provided a copy of the inventory list of Eligible Properties, the Housing Program Manager will proceed with conveyance of the Eligible Properties as provided in this section III(4) below. If an Eligible Property is reverted to the County for failure to comply with a condition or restriction, the Eligible Property may be conveyed in accordance with section III(4).
- e) In accordance with F.S. 125.37 (2022), the County may ensure affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and/or by requiring a reversion of property not used

for Affordable Housing or Workforce Housing within a certain timeframe.

4. Other Methods of Conveyance. If not conveyed in accordance with subsection 3 above, an Eligible Property may be conveyed in one of the following manners. All conveyances of County owned Eligible Property must receive approval by the Board.

a) Bid Sale: As set forth and in the manner authorized in F.S. §125.35, the County may sell, convey, or lease an Eligible Property if the Board finds that it is in the best interest of the County to do so, to the highest bidder who is 'responsive' by complying with the length of term and with such conditions as the County may in its discretion determine. Notice shall first be published once a week for at least 2 weeks in a newspaper of general circulation in Alachua County, or as otherwise authorized under Florida law for publication of public notice, calling for bids on the Eligible Property. The County may also post on the County's website or utilize an online bidding process. The Board may convey the Eligible Property to the responsive highest bidder or may reject all offer(s). If unable to negotiate a purchase agreement with the responsive highest bidder, County may cease negotiations and proceed with negotiations with the second highest bidder. If a bid sale is not successful (no bids or all rejected), an alternative disposition method under this Policy may be used.

b) Private Sale: The County Manager or designee may negotiate a private sale with an adjacent property owner, as set forth in F.S. §125.35(2), when an Eligible Property is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the property or when the value of the property is \$15,000 or less as determined by the Alachua County Property Appraiser, and when, due to the size, shape, location, and value of the parcel, it is determined that the property is of use only to one or more adjacent property owners. Notice of the intended action shall be sent to adjacent property owners, by certified mail. If, within 10 business days, two or more adjacent property owners indicate an interest in purchasing the property, then the County will accept sealed bids for the property from those property owners. The offers(s) will be presented to the Board and the Board may convey the property to the highest and best bidder or may reject all offers. If a private sale is not successful, an alternative disposition method under this Policy may be used.

c) Government Entity or Charitable Institution: As authorized in and in accordance with F.S. §125.38, the Board may sell, transfer or

lease an Eligible Property to another governmental entity or corporation or organization not for profit for a price, whether nominal or otherwise, as the Board may fix. No advertisement is required.

5. Criteria. In any negotiation regarding price, terms and conditions of the conveyance of an Eligible Property, the County will take into consideration:
 - 1) The appraised value of the property.
 - 2) The value of the property as determined by the Alachua County Property Appraiser.
 - 3) The conditions of the property and extent to which the party seeking to acquire the property will have to demolish, improve the property to make it usable, rezone, or otherwise bring property into compliance or put the property to its agreed upon use.
 - 4) The proposed use of the party seeking to acquire the property.
6. Proceeds. Any and all proceeds from the conveyances of the Eligible Properties by way of section III of this Policy will be placed into the Alachua County Affordable Housing Trust Fund, pursuant to F.S. §125.379 and Section 39.5.10, Alachua County Code.
7. Assistance. The County may obtain assistance of the Clerk of Court, a closing agent, or a licensed real estate broker to assist it in conveying properties consistent with this Policy.
8. Closing Costs and Property Condition. The purchaser, buyer, or donee acquiring an Eligible Property shall be responsible for all recording and closing costs and documentary stamps. The Eligible Property shall be conveyed to the purchaser/donee in its 'AS-IS' condition which is without any warranties or representations of any kind or character, express or implied, with respect to the property, including, but not limited to, warranties or representations as to matters of title, land use, zoning, tax consequences, physical or environmental conditions, availability of access, ingress or egress, valuations, governmental approvals, governmental regulations, or any other matter or thing relating to or affecting the property.
9. Surplus Property. If (1) no NHO expresses an interest in a certain Eligible Property within 60 days after the inventory list of Eligible Properties is sent to the local NHOs **and** (2) if no conveyance is able to be made utilizing the process available in section III above, then the RPC or Community Support Services Director may take an agenda item to the Board seeking a resolution removing an Eligible Property from the Affordable Housing Inventory List, declaring the property as "Surplus

Property”, setting a minimum reserve bid for the Surplus Property and allowing the Surplus Property to be disposed of in accordance with paragraph I(6) of this Policy and any manner used by the County, the Clerk, or as authorized by the Code or State of Florida law.

IV. Maintenance and Security.

1. At the time a property becomes owned by the County, including through escheatment, whether improved or unimproved, the property will be maintained by the County or a County’s contractor. Maintenance may include collaboration between the Community Support Services, Housing Program, Code Administration, Solid Waste & Recovery, Facilities, and Public Works for posting signage, removal of junk, debris and hazardous or dangerous structures, and placement of fencing, locks, boarding, or other security measures.
2. The State of Florida, Department of Health, will be notified of any septic tank issues on County owned property.
3. Each property will be properly posted to prevent trespassing. It is the responsibility of the Housing Program to ensure that Eligible Properties are posted to prevent trespassing. The County’s trespass ordinance, policy and procedure are applicable to any County owned property. The County Manager, Deputy County Manager, Assistant County Managers, and the Director of Community Support Services, and any of his or her designees are authorized to provide trespassing warning for occupants of Eligible Properties.
4. If a County owned Property, including an Eligible or a Surplus Property, is found to be occupied, Community Support Services Director or designee(s) will: (1) make efforts to contact the occupant, (2) provide Risk Management with the address of the occupied property, (3) if necessary, issue trespassing warning per County ordinance, policy or procedure and notify law enforcement, and (4) if necessary, contact the County Attorney’s Office for legal assistance with ejectment, legal action to gain possession, writ, or other legal remedy.
5. Further, if a County owned Property, including an Eligible or a Surplus Property, is found to be occupied, the County Manager and his/her designees will make effort to inform the Immediate Prior Owner, occupants, and/or heirs regarding housing programs, relocation assistance programs, heirs’ property assistance programs, and other social services.

V. Special Provisions.

1. This Policy repeals and replaces Resolution 20-21 adopted by the Board of County Commissioners. This Policy also supersedes any other policy, procedure or standard operating procedure to the extent that they are inconsistent with this Policy.

2. This Policy does not cover the distribution of surplus tangible personal property owned by the County.
3. This Policy does not cover the purpose or acquisition of real property or tangible property by the County.
4. The Policies and procedures regarding donation and conveyance of Real Property to Alachua County Forever and to Land Conservation may differ from this Policy, and are not repealed, replace or superseded by this Policy.

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