INCENTIVE POLICY FOR AFFORDABLE HOUSING





PREPARED BY:

CITY OF FLAGSTAFF'S HOUSING SECTION

COMMUNITY DEVELOPMENT DIVISION

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1. OVERVIEW

Decent, safe and affordable housing has been established by the City Council at one of its top priorities. The City Council has adopted policies that aim to further the goal of housing that is affordable within Flagstaff. The Incentive Policy for Affordable Housing (IPAH) incentivizes developments that commit to permanently affordable housing units. If a developer desires to take advantage of the incentives offered under the IPAH document, they would need to provide rental and/or ownership opportunities that have resale and rent restrictions placed on the units for the intended affordable housing population. This document provides a detailed description of the incentives offered to developers wishing to assist the community in addressing the need for affordable housing in Flagstaff.

In addition, the 2001 Regional Land Use and Transportation Plan established a series of goals and strategies to guide the development of decent and affordable housing. Further emphasizing the need for decent housing for the community, the 2005 Community Housing Policy Task Force, the 2006 Comprehensive Plan, and the 2008 Community Housing and Sustainability NEXUS Study (NEXUS Study) all put forth strategies to aid in the preservation and development of attainable housing. Specifically, it was recommended that the 2001 Affordable Housing Set-Aside Policy be updated to reflect the market changes and to further incentivize the development and preservation of housing that is attainable to citizens of Flagstaff.

The City of Flagstaff Incentive Policy for Affordable Housing (IPAH), formerly known as the Affordable Housing Set-Aside Policy is designed to foster the preservation and production of affordable housing units designed for those who live in Flagstaff. Encouraging the preservation and production of permanently affordable units and facilities intended for the Flagstaff community will assist in narrowing the deficit of all types of housing for households earning up to 150% of the Area Median Income (AMI). Affordable housing in Flagstaff must meet the needs and applicable regulations of the federal government, Arizona Revised Statues, the City of Flagstaff, and all other appropriate regulating entities.

The City of Flagstaff will continue to work with developers and builders of single-family, multi-family, and mixed-use developments that voluntarily choose to meet the IPAH criteria. As this is a defined need within the community, as delineated in the 2008 NEXUS Study, City staff encourages developers to review the incentives presented within this document, which support the creation of affordable housing within residential and mixed-use developments.

IPAH designates the Housing Section as the lead agency on housing policy issues and to foster partnerships with neighborhoods, non-profit housing providers, and the home-building industry to develop, finance, rehabilitate, relocate, and implement IPAH in the City of Flagstaff.

IPAH allows for incentives to be provided to the developer to create permanently affordable units within a development that meet the definition of Affordable Housing; thus requiring the Housing Section to catalogue additional incentives that may be advantageous to all parties identified during the review, construction, and inspection of housing developments and it requires collaborations among City divisions in implementing these suggested improvements.

The City of Flagstaff's Incentive Policy for Affordable Housing seeks to:

- Provide viable incentives to stimulate the development of permanently affordable housing.
- Provide viable incentives to stimulate the rehabilitation and redevelopment of permanently affordable housing.
- Provide viable incentives to stimulate the development of permanently affordable housing on vacant and redeveloped lots in new and existing neighborhoods.

2. DEFINITIONS

Affordability Controls: Affordability controls are mechanisms used to ensure that the sale or rental prices of the set-aside units stay attainable to households making a certain percentage of Area Median Income (AMI). These controls remain in effect for a specified period of time.

Affordable Housing: Affordable Housing is defined as housing or shelter that is developed or re-developed for households earning no more than 150% of the AMI for ownership and no more than 100% AMI for rentals. In order to avoid being cost burdened, households should not spend more than 30% of their gross income on housing.

Affordable Residential Uses: "Affordable Residential Uses" in the City of Flagstaff's Zoning Code (LDC) should be replaced by the term Affordable Housing.

Area Median Income (AMI): Area Median Income is an income level determined by the United States Department of Housing and Urban Development based on a variety of factors and representing wages and earnings in the community. Area Median Income is relative to family size and community dynamics. The links , as referenced in APPENDIX A, will be updated by the Housing Section Staff on an annual basis, as published by HUD.

Covenant: A covenant is a type of contract in which the covenantor makes a promise to a covenantee to do or not do some action. In real property law, the term real covenant is used for conditions tied to the use of land. A "covenant running with the land" imposes duties or restrictions upon the use of that land regardless of the owner.

Deed: A deed is a legal document signed by the seller of the property that transfers the title of the property from the seller to the buyer.

Deed Restriction: A deed restriction is a restriction or requirement that must be met by both the buyer and the seller before the property can be transferred to the buyer. Affordability controls provide that the property can only be rented or sold to households that meet the income eligibility criteria identified. Many municipalities use deed restrictions to enforce affordability controls.

Density Bonus: A density bonus is a developer incentive. It is a percentage of units that the municipality permits the developer to construct above and beyond what the zoning designation for that piece of property would otherwise allow.

Developer Incentives: Developer incentives, such as density bonuses, expedited permit processes, fee waivers, and resource reductions are given to developers to either encourage them to build affordable units within a development, or to compensate them for selling/renting the units below market to designated income populations.

Development Fee: A Development Fee is broadly defined as any fee paid to the municipally associated with the development of a project within Flagstaff, including Water and Wastewater System Fees and Impact Fees.

Expedited Permit Process: An expedited permit process allows a municipality to review and process a developer's application for building permits, zoning permits, and other permits, on a faster time schedule than usual. Expedited permit process is offered to a developer, if that developer includes affordable units within a development.

Fee Waiver: The City may waive certain municipal fees for developers, such as building permits, and entitlement fees, in exchange for the construction of a certain number of affordable units as part of the proposed development.

Housing Set-Aside: A housing set-aside in a development agreement provides for a developer to receive incentives for development in exchange for the "set aside" of a percentage of the total units to be affordable to designated income populations. For example, a 10% set-aside means a developer would provide one affordable unit for every ten market-rate units within a proposed development in exchange for density bonuses, expedited permitting, fee waivers or reimbursement, flexible design standards, or financial offsets. The affordable units shall be distributed proportionally throughout the development and phases (where applicable) and appropriately designed and integrated with market-rate units throughout the development. Thirty percent (30 %) of affordable units must be delivered in the first phase and the remainder of the units must be delivered proportionally based on years of build-out and phasing.

Income-Targeting: The income target is the household income level targeted to benefit from the pricing of the affordable units. Income level targeting is determined by looking at the needs and demands within the community. For example, a municipality may determine there is a need for housing for moderate-income level households, such as public safety employees, and thus income targeting would produce affordable units to the designated income populations.

Income-Tiering: Income-tiering is when categories of income levels are produced for which affordable units must be appropriately priced. For example, a municipality may decide that the affordable units in a development must be attainable for households that earn between 50% and 80% of AMI.

In-lieu of Attainable Housing Contribution: The City may permit a developer to make a fee in-lieu or cash payment, instead of constructing affordable units within the proposed development. Usually these payments are deposited in a housing trust fund or a similar restricted fund for the construction of other affordable units elsewhere within the City.

Market Rate: The market rate is the price that a residential unit would sell or rent for on the open real estate market without any subsidies or price restrictions.

Period of Affordability: The period of affordability is the length of time a unit is required to be sold or rented at a price affordable to the income level determined by the municipality. Periods of affordability are usually outlined and enforced through affordability controls, such as deed restrictions or covenants.

Permanent Affordability: Permanent Affordability is divided into two categories: rental and ownership. If a development participates in the voluntary Incentive Policy for Affordable Housing (IPAH) options for rental units, the period of affordability requirement is enforced for no less than 30 years and is subject to renewal. If a development participates in IPAH options for ownership units, the permanent affordability requirement for ownership is enforced at 99-years and is renewable.

Price Point: The price point is the price, or range of prices, a developer determines a unit would sell or rent for on the open market, based on design, location and size.

Rental Unit: A rental unit is a unit owned by one party and then leased to another.

Resale Restriction: A resale restriction is a requirement on the title of the property that must be met before the property is sold to another owner. Resale restrictions are used as an affordability control tool; for example, the sale of a unit might be restricted unless the new owner meets certain requirements outlined in associated documents.

Right of First Refusal: The right of first refusal prevents the sale of a residential property until a designated party has been offered the opportunity to purchase the property first. For example, if a municipality has the right of first refusal, then an affordable unit cannot be sold unless the municipality has been offered the opportunity to purchase the property first.

Second Mortgage Lien: A second mortgage lien is a claim or charge on a property for payment on a debt that is second in priority to the first mortgage. Some municipalities use second mortgages to enforce affordability controls, so if the owner attempts to sell the affordable unit to ineligible households, the municipality can enforce the lien and recapture the property.

Water and Wastewater System Fees: Water and Wastewater System Fees include any fee paid to the municipality for the connection to the municipal water and/or sewer system, and include the customer meter fees, capacity fee, service fee, connection fees, and any associated taxes.

Workforce Housing: "Workforce Housing" in the City of Flagstaff's Zoning Code (LDC) should be replaced by the term Affordable Housing.

Workforce Housing Project: "Workforce Housing Project" in the City of Flagstaff's Zoning Code (LDC) should be replaced by the term Affordable Housing.

Zoning Code: The City of Flagstaff currently operates under a zoning ordinance known as the Land Development Code (LDC). References in this document are made to the Zoning Code, as the LDC is undergoing a substantial re-write and will most likely be renamed. A zoning code divides a municipality into districts and outlines a set of enforceable regulations regarding the structure, design, and use of buildings within each district.

3. IPAH STANDARDS

3.1 As part of Council's housing policy goals, the Housing Section will be provided the opportunity to propose development and/or redevelopment as Affordable Housing for City-owned surplus property, where Council deems appropriate, except for land with a current, adopted Master Plan.

3.2 Incentive Policy for Affordable Housing initiatives involves an application and certification process. IPAH is available for rental and owner-occupied new construction and rehabilitated housing or shelter that meets the IPAH standards.

3.3 The proposed development or redevelopment will comply with the City of Flagstaff Zoning Code, the Regional Transportation and Land Use Plan, adopted Building Codes for the City of Flagstaff, Engineering Standards, and all mandatory sustainability measures adopted by City Council.

3.4 Developers of residential or mixed use developments that voluntarily provide a minimum of ten percent (10%) affordable housing units seeking rezoning of any kind or other discretionary land use approval will be able to benefit from the incentives offered by IPAH. Additionally, if the developer provides affordable housing in a district that permits residential uses then all regulatory, procedural, and program incentives in this Policy are applicable, provided that the developer complies with all other regulations of the districts. This Policy also allows utilization of all applicable procedural and program measures for residential development and redevelopment that is within the Established districts, provided that ten percent (10%) or more of units are affordable. In any event, utilization of any of the incentives is optional.

3.5 A variety of housing types, mixed income and affordable housing developments are encouraged throughout the City and within each neighborhood. Mixed-income means that the development includes at least 10% affordable housing units that are preserved as permanently affordable. Affordable housing that must comply with other federal, state, or local preservation time periods shall also be considered to meet the permanent affordability standards.

3.6 The housing units created for sale under IPAH must be owner-occupied. The eligible household must occupy the housing unit until the time of re-sale. Housing units created for rent under IPAH must have households be income certified on an annual basis.

3.7 The City, or an agency designated by the City, will certify Eligible Buyers and Eligible Renters in accordance with the income qualification rules of the Federal HOME program or other reasonable standards, which take into account income, family size, assets and other economic circumstances. Certification of Eligible Households shall apply to all subsequent households for the permanent affordability period. Failure to meet this requirement will be considered a breach of contract. Contract terms are outlined within individual development agreements.

3.8 The affordable units shall be distributed proportionally throughout the development and phases (where applicable) and appropriately designed and integrated with market-rate units throughout the development. Thirty percent (30 %) of affordable units must be delivered in the first phase and the remainder of the units must be delivered proportionally based on years of build-out and phasing.

3.9 Grandfather Clause: Opportunities to utilize IPAH may be available for projects that have not received final platting or site plan approval and that offer a minimum of ten percent (10%) affordable housing. The owner/developer/applicant is responsible for all modifications to plans and initiating the benefits of the incentives.

3.10 If a developer is considering permanently preserving housing stock that had an expiring period of affordability, they may take advantage of any incentives that are applicable to their application. The developer must also meet all other applicable requirements in order to receive IPAH incentives.

3.11 The owner/developer/applicant or others acting on behalf of the development entity may be required to execute an agreement, restrictive covenants, or other binding restrictions that run with the land in order to insure Permanent Affordability, in accordance with IPAH standards.

3.12 Developments providing permanent affordable housing located within the City of Flagstaff Urban Growth Boundary 1 and 2 (as defined in the 2001 Land Use and Transportation Plan or its successor) will be eligible for IPAH, as long as the development contains one of the following:

3.12.1 Transit Access - The proposed project must have a bus route located within 1/2 mile of the development by the time of eighty percent (80%) of completion; OR

3.12.2 The development must secure acceptance from Staff for a strategy to provide access to alternative transit. This strategy could include vanpool, park-n-ride, FUTS trail access, or service plans for seniors and persons with disabilities. It could also include direct access to several land uses that service residential customers, such as food sales, banking, general retail and other key services (Activity Centers); OR

3.12.3 The development must present documentation from NAIPTA that future service plans will establish a bus route located within previously defined distances to the site and funding must be identified for this route.

3.13 Design Standards apply to multi-family and mixed-use developments. These standards may be found or referenced within the City of Flagstaff Zoning Code.

3.14 Because the number of fee waivers and reimbursement opportunities are limited on an annual basis, as are the resources for expedited review, there is a first-come, first-served policy. Once a project receives Inter-Division Staff ("IDS") approval, resources may be set-aside for the applicable incentives at this time. If a project does not receive Final Plat or Site Plan approval within twelve (12) months of IDS approval, the funds will be allocated to the next available project.

3.15 Other Requirements:

3.15.1 Developers wishing to exercise the incentives within IPAH must have site control of the land/lots located within the city limits of Flagstaff. If the desired zoning is not in place, the applicant must also provide and meet all other applicable requirements in order to receive IPAH incentives.

3.15.2 Single-family units on infill lots receiving fee waivers must be completed, sold, and occupied within twenty-four (24) months of the execution of a contract, development agreement, or other binding restriction with the City or an approved third party. Multi-family, mixed-use and single-family units within a new subdivision's defined phase must be completed, sold, and/or occupied within thirty-six (36) months of the execution of a contract, development agreement, or other binding restriction with the City or an approved third party.

3.15.3 If a developer is planning to utilize a third party entity to provide permanent affordability within a given project, the developer and its representative must enter into a development agreement that clarifies the management, use, and oversight of the affordable components. This agreement is in addition to a deed restriction or affordability covenant to be recorded with the Final Plat or Site Plan.

3.16 Covenants must be in place as a written agreement that is recorded with the deed of the property. Covenants will apply to all future owners of the property or for a specified time period. The affordability covenant allows the agency with oversight to enforce the affordability controls. The covenants require that a property only be sold or rented to households that meet the income eligibility criteria. Covenants should run with the land, or bind each successive owner of the land.

3.17 In order to transfer the right of use to another qualified household, a deed restriction is put in place. These deed restrictions provide that the property can only be rented or sold to households that meet the income eligibility criteria identified. Deed restrictions such as these, with regard to affordability, are restrictions or requirements that must be met by both the buyer and the seller before the property can be transferred.

4. IPAH PROCESS

In order to begin the voluntary housing incentive process, an applicant should contact their staff representative to have a preliminary discussion about the project. A City representative will be the single point of contact and will be working in collaboration with a member of the Housing Section on the identified project. Staff will meet with the applicant to discuss potential incentives and benefits of IPAH Housing Incentives.

For Multi-Family, Mixed-Use, site plans, and single-family subdivisions, staff and the applicant establish the IPAH review timeline as well as initial incentive opportunities for the project. The applicant has until Preliminary Plat approval to commit to IPAH incentives. There may be exceptions to this timeframe and both the Housing Manager and the Planning Director will evaluate them on a case-by-case basis.

At the time a unit is ready to receive a Certificate of Occupancy (C of O), the IPAH applicant must demonstrate compliance with the approved pricing structure and covenants. Compliance is established through a meeting with a member of the Housing Section who will review the necessary documents. In addition, the party selected to review income verification data throughout the affordability period, including initial occupancy, will be contacted by the Housing Section to determine initial compliance.

The Final Plat or Site Plan shall identify the affordable units/lots and shall contain a notice, approved by the City that the deed to the affordable units/lots is subject to the terms of the development agreement, affordability covenant, and deed restrictions. The development agreement and affordability covenant shall provide that if the developer is not in compliance with the terms and conditions of the development agreement and other application regulations, the City reserves the right to withhold building or occupancy permits until the developer is in full compliance with the terms and conditions of the development agreement and/or other applicable regulations.

5. IPAH INCENTIVES

5.1 Fee Waivers

The City of Flagstaff may waive certain Building Permit and Planning fees for developments that the Community Development Director certifies as an IPAH development. The City may also permit the reimbursement of Water and Wastewater System Fees and Impact Fees for Police and Fire. Fee waivers and reimbursements are subject to a sliding scale based on the AMI served by the developer. The lower the AMI served, the greater the waiver and reimbursement percentages. All fees are subject to funding availability and funding may not be available when a project is approved.

The following pages provide the list of fees that may be waived or reimbursed for IPAH developments and the sliding scale of waivers and reimbursements based on the AMI served within the project.

Please note that fee waivers are *not* available for owners with outstanding Code violations, City tax or licensing violations, or violations on accessibility issues on units or projects with which the owning entity is affiliated. Fee waivers are also not available for owners with outstanding or overdue debts to the City.

5.2 Defer Impact Fees for Market Rate Units

Impact Fees, may be deferred until the unit is at certificate of occupancy stage. This option is available for all market-rate units that are constructed with twenty percent (20%) or more affordable housing units within the development.

5.3 IPAH Fees Eligibility List

City Department		Fee Type	Reimbursement or Waiver
Community Development			
	Zoning Fees	Rezoning Application Fees	25% Reimbursement
		General Plan Amendment	25% Reimbursement
	Subdivision Fees	Developer Master Plan	50% Reimbursement
		Concept Plan Submittal	Reimbursed
		Preliminary Plat Submittal	Waiver/Reimbursed
		Final Plat Submittal	Waiver
	Site Plan Fees	Site Plan Submittal	Waiver
		Concept Plan	Reimburse
		P&Z Review/Approval	Waiver
	Building Plan Review, Permit, and Inspection Fees	Building Permit Deposit Fees	Excluded
		Building Permit Fees	Waiver
		Plan Check Fees	Waiver
		Public Improvement Permit Fees	Waiver
		Plan Review Engineering	Waiver
		Over-the-Counter Permit Fees (standalone)	Excluded
		Police and Fire Impact Fees	Reimburse
Water Services Division		Water and Wastewater System Fees	Reimburse

Waiver and Reimbursement Scale (based on AMI served) for project providing **up to 20%** Affordable Housing

AMI Served	Percentage Waived or Reimbursed
60% AMI or Below	100%
61 – 80% AMI	75%
81 – 125% AMI	25%

Waiver and Reimbursement Scale (based on AMI served) for project providing **greater than 20%** Affordable Housing

AMI Served	Percentage Waived or Reimbursed
Below 80% AMI	100%
80 - 125% AMI	75%
126 - 150% AMI	25%

If a developer designs and constructs units that meet all mandatory and voluntary energy code expectations within an IPAH development (minimum of 20% affordable units), the developer may receive a 100% waiver and/or reimbursement for all units.

5.4 Expedited Review

IPAH developments are eligible for expedited review throughout the post-entitlement planning process, which is typically faster than the review time for a conventional development project. City staff will work with applicants to usher projects through review and inspection as quickly and efficiently as possible, on a timeline to be negotiated in a development agreement.

For Multi-Family, Mixed-Use, site plans, and single-family subdivisions, the applicant and staff must establish an IPAH review timeline as well as initial incentive opportunities for the project. Review timelines may be reduced by fifty percent (50%) for the affordable housing units within the development. In order to process the expedited review timelines, the applicant must commit a minimum of ten percent (10%) affordable units. If the developer wishes to have market-rate units qualify for expedited review, the developer must provide greater than twenty percent (20%) affordable housing units and will then be encouraged to submit like units under a block submittal.

The applicant has until Preliminary Plat approval to commit to IPAH incentives. There may be exceptions to this timeframe and both the Housing Manager and the Planning Director will evaluate them on a case-by-case basis.

The speed of the review also depends to a significant degree on the quality of the applicant's submittals and performance. Providing corrections, responding to comments, and ultimately securing an approval in a timely manner is a shared responsibility of both staff and the applicant. Expedited review may be discontinued if the applicant's design team fails to respond to comments in a timely manner.

In order for an applicant to obtain an expedited review (barring statutory requirements) through the entitlement process, a copy of the Affordable Housing Proposal signed by the Housing Manager certifying the developer's commitment to affordable housing, must be attached to the submittal.

In order for an applicant to obtain an expedited Engineering and Development Services Review, the permit for each affordable unit must contain a copy of the IPAH Certification Letter from the Housing section that is provided at time of Final Plat or Site Plan approval. All new buildings must comply with all codes in effect on the day the building permit application was filed. Building permit applications and other information can be retrieved at the Community Development front counter or at **http://flagstaff.az.gov/index.aspx?nid=494**.

5.5 Regulatory Incentives – Planned Affordable Option

Regulatory incentives are located within the City of Flagstaff's Zoning Code under the "Planned Affordable Option" and provide a commitment to a minimum of ten percent (10%) affordable housing units.

5.5.1 Density Bonuses and Flexible Design Standards for selected zoning districts have been incorporated into the current Zoning Code, under the "Planned Affordable Option". (See Table 10-04-002-0003 in City of Flagstaff's Zoning Code).

5.5.1.1 If Density Bonuses are used, the applicant may be allowed up to 50% of the bonus density to be market rate and the other 50% to be affordable – making sure that no less than 10% of the overall project is dedicated to affordable housing.

5.5.1.2 Minimum Open Space Ratios (OSR) have been reduced for selected zoning districts in the "Planned Affordable Option" of the current Zoning Code.

5.5.1.3 Minimum site areas have been reduced for selected zoning districts, which are identified in the "Planned Affordable Option" in the current Zoning Code.

5.5.2 Ten to twenty percent (10 – 20%) reduction in slope and forest resources protection levels in the Zoning Code commensurate with the percentage of affordable housing units provided (e.g., 10% affordable = 10% resource reduction in slope and forest protection, 12% = 12%, etc.), to a maximum of twenty percent (20%). A minimum of ten percent (10%) affordable housing units must be provided to be eligible.

5.5.3 In applicable districts, a project may receive a double counting of 50% of the resources that overlap (trees/slopes/floodplain), if the project provides up to 20% affordable housing. If the project provides greater than 20% affordable housing, then all resources that overlap may be double counted.

5.5.4 Parking Incentives:

5.5.4.1 Tandem Parking may be permitted as an incentive to satisfy two (2) parking spaces, so long as the parking does not extend into the Right-of-Way or defined set-backs.

5.5.4.2 Reduction of parking requirements - The incentive, as calculated in the Zoning Code, allows for a reduced count in necessary parking spaces based on the number of affordable housing units provided within a development**.**

5.5.4.3 Shared Parking - If a project includes affordable housing within mixed-use and infill developments, shared parking with non-competing uses is provided as an incentive (e.g. office space that operates during a typical work day hours and residential development). A Parking Demand Study may be needed to identify shared parking options.

5.6. Land Donation – Tax Deduction

Applicants may receive a tax deduction (IRS Publication 526) if land on which the units are built is dedicated to the City of Flagstaff. This allows long term administration of the permanent affordable units under the City of Flagstaff Community Land Trust Program. Any developer considering this option should consult with a tax professional to determine eligibility for a tax deduction.

If the developer chooses to work with a 3rd party on affordable housing efforts, they will need to review their process and procedures for land donations.

5.7. Public Improvement Districts

Public Improvement Districts are currently permissible in Arizona. Public infrastructure and related items may be available as an incentive to produce affordable housing in Flagstaff.

5.8. In-lieu of Affordable Housing Contribution

In specific circumstances, where the development is unable to provide lots that are financially feasible to construct affordable housing, the City may permit the developer to use incentives within IPAH and provide a comparable land or financial donation in order to provide affordable housing in other locations within Flagstaff. Opting to put forth a financial contribution must not be an incentive unto itself; it should accurately reflect the true cost of land for purchase and ultimate development for affordable housing.

APPENDIX A

Please see the City of Flagstaff's Housing Section website for current Area Median Income (AMI) tables for the Affordable Rental Program and the Affordable Homeownership Program.