

ORDINANCE NO. 2019_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA AMENDING CHAPTER 308, INDIAN RIVER COUNTY LOCAL HOUSING ASSISTANCE PROGRAM, OF THE CODE OF LAWS AND ORDINANCES OF INDIAN RIVER COUNTY, AND PROVIDING FOR CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners adopted Chapter 308 of the County Code on April 6, 1993, establishing the Indian River County Local Housing Assistance Program; and

WHEREAS, as part of the establishment of the County Local Housing Assistance Program, an Affordable Housing Advisory Committee was created that performed and completed tasks outlined in state statutes, and such Committee was eventually dissolved on November 4, 2003; and

WHEREAS, the 2007 Florida Legislature, as part of HB 1375, revised Section 420.9076 Florida Statutes to require all counties in the state to establish Affordable Housing Advisory Committees and to prepare a report every three years that reviews local established policies and procedures, ordinances, land development regulations and comprehensive plan and recommend specific actions or initiatives to encourage or facilitate affordable housing, while protecting the ability of the property to appreciate in value; and

WHEREAS, recently state mandated Affordable Housing Advisory Committee membership requirements changed; and

WHEREAS, several sections of County Code Chapter 308 must either be updated or revised to be consistent with the amended state requirements; and

WHEREAS, on October 22, 2019, the Board of County Commissioners authorized staff to advertise for a public hearing to consider revising Chapter 308 of the County Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Indian River County, Florida that:

SECTION ONE: AMENDMENT OF CHAPTER 308.

Chapter 308 of the Indian River County Code is hereby amended to read as shown in Appendix A, attached.

SECTION TWO: CODIFICATION.

It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to

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section, article or such other appropriate word or phrase in order to accomplish such intention.

SECTION THREE: SEVERABILITY.

If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION FOUR: EFFECTIVE DATE.

This ordinance shall become effective upon filing with the Florida Department of State.

This ordinance was advertised in the Vero Beach Press-Journal on the 1st day of December 2019, for a public hearing to be held on the 17th day of December 2019, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Susan Adams, Chairman	_____
Joseph E. Flescher, Vice Chairman	_____
Tim Zorc, Commissioner	_____
Peter D. O'Bryan, Commissioner	_____
Bob Solari, Commissioner	_____

The Chairman thereupon declared the ordinance duly passed and adopted this 17th day of December 2019.

Board of County Commissioners
Indian River County, Florida

By: _____
Susan Adams, Chairman

ATTEST BY: _____
Jeffrey R. Smith, Clerk of Court and Comptroller

This ordinance was filed with the Department of State on the following date:
_____.

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APPROVED AS TO FORM AND LEGAL SUFFICIENCY

William K. DeBraal, Deputy County Attorney

APPROVED AS TO PLANNING MATTERS

Roland M. DeBlois, AICP; Interim Community Development Director

F:\Community Development\SHIP\AHAC- Affordable Housing Advisory Committee\Resolutions and Ordinances\2019 Resolution and Ordinance Revisions\Attach 2 - Part 1 - 2019 Ordinance Amending Ch. 308 v1.doc

APPENDIX A

CHAPTER 308. - INDIAN RIVER COUNTY LOCAL HOUSING ASSISTANCE PROGRAM

Part I. In General	
Sec. 308.01.	Title.
Sec. 308.02.	Purpose and intent.
Sec. 308.03.	Definitions.
Sec. 308.04.	Creation of the Indian River County Local Housing Assistance Trust Fund.
Sec. 308.05.	Establishment of the Indian River County Local Housing Assistance Program.
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Sec. 308.08.	Severability.
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Part II. Indian River County Neighborhood Stabilization Program Acquisition, Rehabilitation, and Sale Procedures and Standards	
Sec. 308.10.	Title.

Sec. 308.11.	Purpose and intent.
Sec. 308.12.	Establishment of procedures for county acquisition of foreclosed or abandoned properties with NSP funds.
Sec. 308.13.	Establishment of procedures for county rehabilitation of properties purchased with NSP funds.
Sec. 308.14.	Establishment of criteria for the sale of NSP properties that constitute an alternative property disposition procedure to sections (1) and (2) of F.S. § 125.35.

PART I. - IN GENERAL^[1]

Footnotes:

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Editor's note— In order to retain the format of the Code, and at the editor's discretion, part I has been added.

Section 308.01. - Title.

This chapter, the terms and provisions contained herein, shall be known as "Local Housing Assistance Program Ordinance" of Indian River County, Florida.

(Ord. No. 93-13, 4-6-93)

Section 308.02. - Purpose and intent.

The purpose of this chapter is to comply with the requirements of F.S. §§ 420.097—420.9079, State Housing Initiatives Partnership (SHIP) Act and Rule 67-37 Florida Administrative Code (FAC). As such, this chapter provides for:

- (1) Creation of the Indian River County Local Housing Assistance Trust Fund in accordance with Rule 67-37.008 FAC;
- (2) Establishment of the Indian River County Local Housing Assistance Program in accordance with Rule 67-37.005 FAC, under which the Indian River County Local Housing Assistance plan has been adopted;
- (3) Designation of the responsibility for the implementation and administration of the Indian River County Local Housing Assistance Program; and
- (4) Creation of the Indian River County Affordable Housing Advisory Committee in accordance with F.S. § 420.9076 and Rule 67-37.010 FAC.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.03. - Definitions.

The definitions provided in Rule 67-37.002, Florida Administrative Code (FAC), F.S. § 420.9071 and in the Indian River County Local Housing Assistance Plan shall apply to the terms used in this chapter.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.04. - Creation of the Indian River County Local Housing Assistance Trust Fund.

The Indian River County Local Housing Assistance Trust Fund (IRCLHATF) is hereby created and established consistent with F.S. § 402.9075 and Rule 67-37.008 FAC. The Indian River County Local Housing Assistance Trust Fund shall be a separate fund account maintained by the Indian River County Board of County Commissioners. Expenditures from the trust fund must meet all requirements of F.S. § 420-9075 and Rule 67-37 FAC.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.05. - Establishment of the Indian River County Local Housing Assistance Program.

- (1) Consistent with F.S. § 420.9072 and Rule 67-37 FAC, the Indian River County Local Housing Assistance Program is hereby created and established.
- (2) The intent of the Indian River County Local Housing Assistance Program is to increase the availability of affordable housing units to Eligible Persons by combining local resources and cost-saving measures into an Indian River County Local Housing Partnership and using private and public funds to reduce the cost of housing.
- (3) The Indian River County Local Housing Assistance Program shall use the funds held in the Indian River County Local Housing Assistance Trust Fund to implement the Indian River County Local Housing Assistance Plan.
- (4) Loans to income eligible households from the Indian River County Local Housing Assistance Trust Fund shall be provided for periods not exceeding thirty (30) years. However, deferred payment soft-second loans or loans that extend beyond thirty (30) years may be provided with the condition that each assisted housing unit financed in either manner must be occupied by income eligible persons for the same period of time as the extended loan period.
- (5) Whenever an owner-occupied housing unit which was purchased or rehabilitated with a deferred payment loan provided from the Indian River County Local Housing Assistance Program is sold, refinanced with a cash out, or occupied by someone other than the original loan recipient, the entire loan amount and accumulated interest shall be due and payable to the local housing assistance program. The funds obtained through these repayments shall be redeposited into the Indian River County Local Housing Assistance Trust Fund for redistribution by the Indian River County Local Housing Assistance Program.
- (6) The activities and strategies to be undertaken by the Indian River County Local Housing Assistance Program in providing and encouraging affordable housing shall be consistent with the most recent Indian River County Local Housing Assistance Plan approved by the Board of County Commissioners and Florida Housing Finance Corporation (FHFC) and meet requirements of F.S. § 420.9075 and Rule 67-37 FAC.
- (7) The Indian River County Board of County Commissioners may elect to provide additional funding to supplement and/or augment funds provided from the Indian River County Local Housing Assistance Trust Fund for administration and implementation of the Indian River County Local Housing Assistance Program.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.06. - Designation of responsibility for administration and implementation of the Indian River County Local Housing Assistance Program.

- (1) The Indian River County Community Development Department is hereby designated the agency responsible for the implementation and administration of the Indian River County Local Housing Assistance Program. In its capacity as the responsible agency, the community development department, with concurring approval from the board of county commissioners, may contract with various profit or non-profit agencies for various administrative activities.
- (2) The community development department shall monitor the success of the Indian River County Local Housing Assistance Program, and provide advice and suggestions as to whether and in what ways the Indian River County Local Housing Assistance Program might be improved from year to year.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.07. - Creation of the Indian River County Affordable Housing Advisory Committee.

- (1) The Indian River County Affordable Housing Advisory Committee is hereby created and established pursuant to the requirements of F.S. § 420.9076(2). The members of the advisory committee shall be appointed by resolution of the board of county commissioners.
- (2) The resolution appointing the Indian River County Affordable Housing Advisory Committee shall define affordable housing as applicable to the county in a way that is consistent with the adopted local comprehensive plan.
- (3) The affordable housing advisory committee shall consist of ~~seventeen~~eleven (17~~11~~) voting members. ~~Sixteen (16) members shall be voting members, and nine~~Six (9~~6~~) of those voting members shall constitute a quorum. The committee may not take formal actions unless a quorum is present, but may meet to hear presentations and undertake other informal activities if duly noticed.
 - (a) The Indian River County Board of County Commissioners shall appoint ~~the six~~ voting members of the affordable housing advisory committee selected from six of the following eleven categories in conformance with the following representational criteria:
 1. One (1) citizen who is actively engaged in the residential building industry.
 2. One (1) citizen who is actively engaged in the banking or mortgage industry.
 3. One (1) citizen who is a representative of those areas of labor engaged in home building.
 4. One (1) citizen who is designated as an advocate for low-income persons.
 5. One (1) citizen who is actively engaged as a for-profit a provider of affordable housing.
 6. One (1) citizen who is actively engaged as a not-for-profit provider of affordable housing.
 7. One (1) citizen who is a real estate professional.
 8. One (1) citizen who actively serves on the county's local planning agency (Planning and Zoning Commission).
 9. One (1) citizen who resides within the county.
 10. One (1) citizen who represents employers within the county.
 11. One (1) citizen who represents essential service personnel.

(b) The City of Fellsmere, City of Sebastian, Town of Indian River Shores, Town of Orchid, and City of Vero Beach each shall appoint ~~one member~~one-member representative (members 7 – 11).

~~12. One (1) member who is a representative of the City of Fellsmere, appointed by the City of Fellsmere.~~

~~13. One (1) member who is a representative of the City of Sebastian, appointed by the City of Sebastian.~~

~~14. One (1) member who is a representative of the Town of Indian River Shores, appointed by the Town of Indian River Shores.~~

~~15. One (1) member who is a representative of the Town of Orchid, appointed by the Town of Orchid.~~

~~16. One (1) member who is a representative of the City of Vero Beach, appointed by the City of Vero Beach.~~

(cb) The Indian River County Board of County Commissioners shall appoint one member of the Indian River County Board of County Commissioners as a non-voting memberliaison of the affordable housing advisory committee.

- (4) The following terms of membership shall apply to members of the committee:
 - (a) Voting members shall serve for two-year terms and may be reappointed for subsequent terms.
 - (b) Non-voting members shall serve for one-year terms and may be reappointed for subsequent terms.
- (5) Meetings shall be held as needed.
- (6) The Indian River County Affordable Housing Advisory Committee shall comply with the Government in the Sunshine Law, the public records law, and the special provisions regarding notice of Affordable Housing Incentive Plan considerations found in F.S. § 420.9076. Minutes of all meetings shall be kept.
- (7) The Indian River County Affordable Housing Advisory Committee shall annually elect a chairperson and a vice-chairperson, and such other offices as it deems necessary.
- (8) Staff, administrative and facility support for the Indian River County Affordable Housing Advisory Committee shall be provided by the board of county commissioners.
- (9) Triennially, consistent with requirements of F.S. § 420.9076 and Rule 67-37 FAC the advisory committee shall review the county's established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Section 308.08. - Severability.

If any phrase or portion of this chapter, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phases and their application shall not be affected thereby.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Section 1(App. A) of Ord. No. 2014-008, adopted April 15, 2014, repealed the former § 308.08 which pertained to the adoption of the Indian River County Affordable Housing Incentive Plan, and derived from Ord. No. 93-13, adopted April 6, 1993. Said ordinance renumbered former § 308.09 as § 308.08.

Section 308.09. - Effective date.

This chapter shall become effective thirty (30) days after the date of formal adoption.

(Ord. No. 93-13, 4-6-93; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.10.

PART II. - INDIAN RIVER COUNTY NEIGHBORHOOD STABILIZATION PROGRAM ACQUISITION, REHABILITATION, AND SALE PROCEDURES AND STANDARDS

Section 308.10. - Title.

This Part of Chapter 308, the terms and the provisions contained herein, shall be known as the Indian River County Neighborhood Stabilization Program Acquisition, Rehabilitation, and Sale Procedures and Standards.

(Ord. No. 2012-006, § 2, 5-1-12; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.11.

Section 308.11. - Purpose and intent.

Since 2009, Indian River County has participated in the Neighborhood Stabilization Program, NSP, as created by the Housing and Economic Recovery Act of 2008, the American Recovery and Reinvestment Act of 2009, and the Wall Street Reformed Consumer Protection Act of 2010. The purpose of this chapter is to set forth procedures and standards whereby Indian River County can acquire foreclosed or abandoned properties using Neighborhood Stabilization Program (NSP) funds, rehabilitate those properties with NSP funds, and sell those properties to qualifying low and moderate income households. As such, this chapter provides for:

- (1) Establishment of competition and qualification standards for county acquisition, rehabilitation and sale of foreclosed or abandoned properties in accordance with the NSP;
- (2) Provisions for notice to participants in the NSP;
- (3) Establishment of a form and manner to acquire property;
- (4) Establishment of negotiation or qualification standards that must be met in order for a person to buy a property under the NSP;
- (5) Establishment of a process to provide notice to potential qualified buyers for NSP rehabilitated housing.

(Ord. No. 2012-006, § 2, 5-1-12; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.12.

Section 308.12. - Establishment of procedures for county acquisition of foreclosed or abandoned properties with NSP funds.

- (1) The community development director is hereby designated as the person responsible for administering the county's Neighborhood Stabilization Program. In this capacity, the community development director shall comply with all procedures in the Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP) Housing Assistance Plan (HAP) and NSP Program Manual (as applicable).
- (2) Consistent with NSP guidelines, the county will acquire foreclosed or abandoned properties to rehabilitate and sell or rent to qualified low and moderate income households. All properties acquired through the NSP will be located in the designated NSP target area and will be acquired at no more than ninety-nine (99) percent of current appraised value.
- (3) To acquire properties, the county will work with qualified local real estate brokers, financial institutions, and federal housing agencies. For each potential purchase, the county will undertake all applicable pre-acquisition due diligence activities. This will involve obtaining surveys, appraisals, inspections, and title reports, as applicable.
- (4) In acquiring NSP properties, the community development director is hereby authorized to execute purchase contracts, due diligence contract work orders, and other applicable documents. On a regular basis, the community development director shall provide an NSP acquisition status report to the board of county commissioners.

(Ord. No. 2012-006, § 2, 5-1-12; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.13.

Section 308.13. - Establishment of procedures for county rehabilitation of properties purchased with NSP funds.

- (1) For each NSP property acquired by the county, an inspection of the property will be conducted to determine the specific rehabilitation work required. That inspection will be based on the county's NSP construction specifications document. Based on the inspection report prepared for the property, a scope of work will be developed, and bid documents will be prepared.
- (2) To procure contractors for NSP rehabilitation work, the county will comply with applicable NSP regulations and Indian River County Policies and Procedures for CDBG programs and projects. For each NSP rehabilitation project, the county will solicit bids from those firms on its list of pre-qualified contractors. A contract will then be awarded to the lowest, most responsive bidder.
- (3) The community development director is hereby authorized to execute rehabilitation contracts with NSP contractors. Those contractors will be responsible for obtaining all required permits and completing all items in the applicable scope of work within the timeframe established in the contract. Once the work is completed and inspected, releases of liens are provided, and invoices are submitted, the contractors will be paid.

(Ord. No. 2012-006, § 2, 5-1-12; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.14.

Section 308.14. - Establishment of criteria for the sale of NSP properties that constitute an alternative property disposition procedure to sections (1) and (2) of of F.S. § 125.35.

- (1) Pursuant to NSP requirements, the county will sell houses acquired with NSP funds to qualified low and moderate income households. In so doing, the county will comply with the resale property disposition criteria in the county's CDBG NSP HAP or NSP Program Manual (as applicable).
- (2) To be eligible to purchase an NSP house, a buyer must meet the qualification standards listed in the HAP. Specifically, a potential buyer must have an income in the low or moderate income category, have the minimum downpayment amount, and qualify with a financial institution for a principal mortgage in an amount adequate to purchase an NSP house with county/NSP gap financing assistance. For each prospective NSP buyer, the county will conduct an income qualification assessment. NSP houses will then be sold on a first come/first served basis.
- (3) The county will provide notice of intent to sell NSP houses in several ways. These may include, but not be limited to, newspaper advertisements, brochures, multiple listing service, and website notice.
- (4) Once the rehabilitation of an NSP house is complete, the county will have the rehabilitated house appraised. The lower of the appraised value or the total of the acquisition, maintenance and rehabilitation cost of the house will then be the house's selling price. Once the selling price is set, the county will sell the house at the selling price to the first qualified buyer. If, however, a new appraisal indicates that the house's value is less than the selling price, the house will be sold for the new appraised value. The manner of acquisition will be by warranty deed from the county.
- (5) All sales of NSP properties will comply with the county's comprehensive plan and zoning.
- (6) The chairman of the board of county commissioners is hereby authorized to execute deeds and other documents associated with the sale of NSP properties.

(Ord. No. 2012-006, § 2, 5-1-12; Ord. No. 2014-008, § 1(App. A), 4-15-14)

Editor's note— Former § 308.15.