

1. Premium (Bonus) Provisions in the Minneapolis, Minnesota, Zoning Code
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PREMIUM (BONUS) PROVISIONS IN THE MINNEAPOLIS, MINNESOTA, ZONING CODE

Title 20 (Zoning Code)

Chapter 549 (Downtown Districts)

Article II (Floor Area Ratio Premiums)

549.220. Floor area ratio premiums.

The following floor area ratio premiums shall be available as specified in Table 549-4, Maximum Floor Area Ratio Premiums in the Downtown Districts [see below], subject to the provisions of this article, provided all other requirements of this zoning ordinance are met:

Urban open space, outdoor, subject to the following standards:

- Outdoor open space shall comprise at least 50 feet of street frontage. Small outdoor open space shall contain not less than 5,000 contiguous square feet. Large outdoor open space shall contain not less than 7,500 contiguous square feet.
- Outdoor open space shall be easily accessible from the adjacent sidewalk and shall contain lighting for nighttime illumination.
- Outdoor open space shall be located near building entrances. Not less than 40 percent of the first-floor facade facing the outdoor open space shall include windows of clear or lightly tinted glass that allow views into and out of the building at eye level.
- Outdoor open space shall be paved with materials that exceed city standards for sidewalk finishes and shall be landscaped with not less than 1 permanent canopy tree and not less than 5 shrubs for each 1,000 square feet of open space. All landscaping shall comply with the plant material and installation standards as specified in Chapter 530, Site Plan Review. Outdoor open space may include additional sidewalk area where the existing sidewalk is less than 15 feet wide. The remainder of the area shall be covered with turf grass, native grasses, or other perennial flowering plants.
- Outdoor open space shall be open to the sky and located to maximize the access of sunlight, except that up to 30 percent of the space may include a covered arcade with a minimum height of 28 feet.
- Outdoor open space shall be designed to encourage use by the general public through the provision of facilities and features including convenient and comfortable seating at a rate of not less than 1 seat per 200 square feet of open space, tables, trash receptacles, plants, water features, and areas for public entertainment or public display of art or cultural exhibits.
- Outdoor open space may contain tables and facilities for food service, but a majority of the space shall be available for general public use without charge.
- The outdoor open space shall be open to the general public at least during the normal business hours of the surrounding area.

- The outdoor open space shall be maintained in good order for the life of the principal structure.

Urban open space, indoor, subject to the following standards:

- Indoor open space shall be located at street level and shall be not more than 3 feet above or below the level of the sidewalk. Small indoor open space shall contain not less than 5,000 contiguous square feet. Large indoor open space shall contain not less than 7,500 contiguous square feet.
- Indoor open space shall be clearly visible and easily accessible from adjacent sidewalks or streets. Walls of an indoor open space area facing sidewalks or an outdoor open space area shall provide a clear view between interior and exterior space.
- Indoor open space shall include an average height not less than 35 feet and a minimum height of 20 feet, and shall include natural light through a glazed roof or windows at a level sufficient to sustain a variety of plants and trees.
- Indoor open space shall be designed to encourage use by the general public through the provision of facilities and features including convenient and comfortable seating at a rate of not less than 1 seat per 200 square feet of open space, tables, trash receptacles, plants and trees, water features, drinking fountains and toilet facilities, and areas for public entertainment or public display of art or cultural exhibits. Not less than 20 percent of the open space shall consist of landscaping or landscaping and water features.
- Indoor open space may contain tables and facilities for food service, but a majority of the space shall be available for general public use without charge. Food preparation areas shall not qualify as required space.
- The indoor open space shall be open to the general public at least during the normal business hours of the surrounding area.
- The indoor open space shall be maintained in good order for the life of the principal structure.

Interior through-block connection, subject to the following standards:

- The connection shall connect two public streets on opposite sides of the block, or shall connect a public street to an urban open space on the opposite side of the block, or shall connect two urban open spaces on opposite sides of the block, or shall connect to another interior through-block connection. In addition, on developments involving less than one-half block, the interior through-block connection may connect 2 public streets on opposite sides of the block in combination with corridors in 1 or more buildings.
- The connection shall be located not more than 3 feet above or below the level of the sidewalk, shall have a minimum interior clear width of 12 feet and a minimum height of 12 feet. The maximum interior through-block connection premium shall be increased by 1 where the interior through-block connection has a minimum interior clear width of 16 feet.
- The connection shall be open to the general public at least during the normal business hours of the surrounding area.
- The connection entrances shall be clearly visible from adjacent sidewalks or streets.
- The connection shall be maintained in good order for the life of the principal structure.

Skyway connection, subject to the following standards:

- The skyway shall connect two blocks on opposite sides of the street.

- The bottom of the skyway shall be a minimum of 16 feet, 6 inches above the street. If street lights are removed, street lighting shall be provided at the bottom of the skyway.
- Skyways and connecting corridors shall have a minimum interior clear width of 12 feet. Skyways shall be no wider than 30 feet. The maximum skyway premium shall be increased by 1 where the skyway and connecting corridor have a minimum interior clear width of 16 feet.
- Skyways shall be single story and designed to be horizontally level with the street. Changes in grade shall be accommodated so that the skyway appears level from the exterior.
- Except where crossing streets and alleys, skyways shall be located within private property.
- At least 80 percent of the vertical enclosure of the skyway shall be windows of clear or lightly tinted glass that allow views into and out of the skyway.
- Skyways shall be designed to facilitate access between street and skyway levels. Elevators, stairs, and escalators linking the street and skyway levels shall be conveniently located with clear directional signs.
- Skyways shall be heated to a minimum of 55 degrees in winter and ventilated to not exceed outdoor temperatures in the summer.
- The skyway shall be open to the general public at least during the hours recommended by the skyway advisory board and approved by the city council.
- The skyway shall be maintained in good order for the life of the principal structure.

Transit facility, subject to the following standards:

- The transit facility shall be located at a transit stop location approved by the planning director in consultation with the city engineer. The maximum transit facility premium shall be increased by 1 where the transit facility is located at an approved light rail transit stop.
- The transit facility shall be open to the general public at least during the normal hours of transit service.
- The transit facility shall be similar to the principal structure in design and materials, shall be weather protected, heated, and lighted, and shall contain at least 2 entries.
- The transit facility shall be clearly visible from the street and sidewalk, and transit users shall be able to see oncoming transit vehicles from the facility.
- The transit facility shall contain a combination of leaning rails and seating for at least 30 percent of projected peak demand, trash receptacles, and connections for transit schedule monitors.
- The transit facility shall be maintained in good order for the life of the principal structure.

Street-level retail uses, subject to the following standards:

- Retail uses shall be limited to Retail Sales and Services uses and Food and Beverages uses included in Table 549-1 Principal Uses in the Downtown Districts.
- Retail uses shall extend along at least 60 percent of the building wall fronting on any street.
- Each retail use shall have at least 1 separate entrance from the sidewalk.
- Street-level uses shall include awnings or canopies to provide protection to pedestrians and to emphasize individual uses and building entrances.

- At least 40 percent of the first floor facade that faces a public street, sidewalk, or parking lot shall be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level, except within the NM Nicollet Mall Overlay District, where such district standards shall apply.
- The street-level retail space shall be maintained in good order for the life of the principal structure.

Public art, subject to the following standards:

- The art shall be valued at not less than one-fourth of 1 percent of the capital cost of the principal structure.
- The art shall be located where it is highly visible to the public. If the art is located indoors, such space shall meet the minimum requirements for an indoor open space, interior through-block connection or skyway connecting corridor, as specified in this article.
- The art shall be maintained in good order for the life of the principal structure.

Freight loading terminal, subject to the following standards:

- All freight loading facilities shall be located entirely below grade or entirely enclosed within the principal structure served.
- The freight loading facilities shall be designed to meet the needs and requirements of all uses on the zoning lot.
- The freight loading facility shall be maintained in good order for the life of the principal structure.

Sidewalk widening, subject to the following standards:

- The existing sidewalk shall be less than 15 feet wide.
- The widened sidewalk shall be at least 15 feet wide, open to the sky, paved with materials that meet or exceed city standards for sidewalk finishes, and shall include the provision of street trees as approved by the planning director.
- The widened sidewalk shall be maintained in good order for the life of the principal structure.

Mixed-use residential, subject to the following standards:

- At least 10 percent of the gross floor area of the principal structure shall be occupied by dwelling units.
- The dwelling units shall be located above the first floor.
- The dwelling units shall be maintained in good order for the life of the principal structure.

Historic preservation, subject to the following standards:

- The structure shall be a locally designated historic structure or shall be determined to be eligible to be locally designated as a historic structure, as provided in Chapter 34 of the Minneapolis Code of Ordinances, Heritage Preservation Commission.
- The historic structure, if undesignated, shall be subject to the same restrictions that are applicable to locally designated historic structures and the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation.
- The historic structure shall be rehabilitated pursuant to the applicable guidelines of the heritage preservation commission and the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation, if necessary.
- The historic structure shall be maintained in good order for the life of the principal structure.

TABLE 549-4
MAXIMUM FLOOR AREA RATIO PREMIUMS IN THE DOWNTOWN DISTRICTS¹

Premium Type	Zoning District and Premium Value			
	B4-2	B4-1 & B4S-2	B4S-1	B4C-1, 2
Urban Open space, small	4.0	3.0	2.0	—
Urban Open space, large	8.0	6.0	4.0	—
Interior through-block connection	1.0 or 2.0	1.0 or 2.0	1.0 or 2.0	1.0 or 2.0
Skyway connection	1.0 or 2.0	1.0 or 2.0	1.0 or 2.0	—
Transit facility	2.0 or 3.0	2.0 or 3.0	2.0 pr 3.0	2.0 or 3.0
Street-level retail	2.0	1.0	1.0	—
Public art	2.0	2.0	1.0	1.0
Freight loading terminal	2.0	2.0	2.0	2.0
Sidewalk widening	2.0	2.0	1.0	1.0
Mixed-use residential	4.0	3.0	—	2.0
Historic preservation	4.0	3.0	2.0	2.0

¹Less than the maximum premium may be approved where the amenity includes alternatives to the standards of this article, pursuant to Section 549.240.

B4 = Downtown Business District; B4S = Downtown Service District; B4C = Downtown Commercial District

DRAFT OF A MODEL INCENTIVE ZONING STATUTE

Excerpted from the preliminary final draft (July 2000) of Chapter 9 of the Growing SmartSM Legislative Guidebook (Chicago: American Planning Association, forthcoming). Section numbers in brackets refer to other sections within the Legislative Guidebook. Other numbers in brackets (e.g., [five] years) are amounts suggested by the authors of the model. An extensive commentary on this part of the Guidebook has been incorporated into the text of this PAS Report and is therefore not repeated here.

The model statute in Section 9-501 below is an adaptation and refinement of the well-drafted California statute that requires local governments to grant density bonuses of at least 25 percent, plus an additional incentive(s) or equivalent financial incentive to developers of affordable housing. In contrast to the California statute, which distinguishes between the types or categories of affordable housing (i.e., between low-income, very-low-income, and senior citizen housing), the model below makes no such differentiation, giving that discretion to local governments. The developer is required to enter into a development agreement with the local government that will formalize the manner in which the affordable housing is to be kept affordable and other administrative details relating to the project. The model statute also authorizes development incentives for increased nonresidential floor area for provision of “public benefit amenities,” such as plazas, parks, and open space, access to transit stations, overhead weather protection, and street arcades. A public benefit amenity may also include provision of affordable housing as part of a nonresidential development for which a density bonus may be granted. A local government may also adopt a “uniform incentives ordinance” that addresses both provision of affordable housing and dedication of open space and/or provision of community design amenities.

APA’s evaluation of the California statute has determined that, if such program is to be successful at the local level, it is necessary to have a long-term commitment to the program by the local government as well as a dedicated source of funds. Monies such as revenues from tax increment financing (TIF) initiatives and federal community development block grant (CDBG) programs are essential sources to

provide subsidies for affordable housing. (See the Petaluma and San Jose case studies in Part 3 of this report.)

9-501 Land-Use Incentives for Affordable Housing, Community Design, and Open Space Dedication; Unified Incentives Ordinance

- (1) The legislative body of a local government, in the manner for the adoption and amendment of land development regulations pursuant to Section [8-103 or cite to some other provision, such as a municipal charter or state statute governing the adoption of ordinances]:
 - (a) shall adopt and amend an ordinance that authorizes incentives for the provision of affordable housing; and
 - (b) may adopt and amend an ordinance that authorizes incentives for open space dedication and provision of public benefit amenities.
- (2) The purpose of this Section is to authorize the adoption and amendment of:
 - (a) an affordable housing incentives ordinance in order to respond to and accommodate present and future needs for affordable housing;
 - (b) a community design and open space incentives ordinance to provide additional amenities for public use or benefit in new development that carry out goals and policies of a local government identified in its local comprehensive plan; and
 - (c) a unified incentives ordinance that incorporates subparagraphs (a) and (b) above.
- (3) As used in this Section:
 - (a) “Affordable Housing” means housing that has a sales price or rental amount that is within the means of a household that may occupy moderate- or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which annual housing costs constitute no more than [28] percent of such gross annual household income for a household of the size that may occupy the unit in question. In the case of dwelling units for rent, housing that is affordable means housing for which the affordable rent is no more than [30] percent of such gross annual household income for a household of the size that may occupy the unit in question.
 - (b) “Affordable Housing Development” means any housing development that is subsidized by the federal, state, or local government, or any housing development in which at least [20] percent of the dwelling units are subject to covenants or restrictions that require such dwelling units to be sold or rented at prices that preserve them as affordable housing pursuant to this Section.
 - (c) “Affordable Housing Incentives” mean a density bonus and other development incentives granted under an affordable housing incentive ordinance pursuant to this Section.
 - (d) “Affordable Rent” means monthly housing expenses, including a reasonable allowance for utilities, for affordable housing units that are for rent to low- or moderate-income households.
 - (e) “Affordable Sales Price” means a sales price at which low- or moderate-income households can qualify for the purchase of affordable housing, calculated on the basis of underwriting standards of mortgage financing available for the housing development.
 - (f) “Bonusable Area” means space that is occupied by a public benefit amenity and that is determined by the local government to satisfy requirements under its land development regulations for additional gross floor area or dwelling units.

- (g) "Bonus Ratio" means the ratio of additional square feet of non-residential floor area granted per square foot of bonusable area.
- (h) "Density Bonus" means the percentage of density increase granted over the otherwise maximum allowable net density under the applicable zoning ordinance as of the date of the application to the local government for incentives by a developer. The density bonus applicable to affordable housing shall be at least a 25 percent increase, and shall apply to the site of the affordable housing development.

Commentary: *California communities offer density bonuses well in excess of 25 percent., in some cases as high as 150 to 175 percent. See Robert A. Johnston, Seymour I. Schwartz, Geoffrey A. Wandesforde-Smith, and Michael Caplan, "Selling Zoning: Do Density Bonuses for Moderate-Cost Housing Work?" Land Use Law & Zoning Digest 42, no. 8 (August 1990): 3-9.*

- (i) "Development Agreement" means a development agreement authorized by Section [8-701].
- (j) "Development Incentives" mean any of the following:
 1. reductions in building setback requirements;
 2. reductions or waivers of impact fees, application fees for development permits, utility tap-in fees, or other dedications or exactions;
 3. reductions in minimum lot area, width, or depth;
 4. reductions in required parking spaces per dwelling unit;
 5. increased maximum lot coverage;
 6. increased maximum building height and/or stories;
 7. reductions in minimum building separation requirements, provided that such reductions do not conflict with building code requirements of the state or the local government, as applicable;
 8. reductions or waivers of public or nonpublic improvements;
 9. approval by the legislative body of a local government of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will contribute significantly to the economic feasibility of the housing development and if the mixed-use zoning is consistent with the local comprehensive plan;
 10. authorization for the affordable housing development to include nonresidential uses, provided such uses or such authorization is consistent with the local comprehensive plan;
 12. authorization for the affordable housing to be located in a nonresidential zoning district, provided such authorization is consistent with the comprehensive plan; or
 13. other incentives proposed by the developer of an affordable housing project or by the local government that result in identifiable cost reductions for affordable housing, including direct financial aid by the local government in the form of a loan or grant to subsidize or provide low-interest financing for on- or off-site improvements, land, or construction costs.
- (k) "Floor Area Ratio" means the ratio of the maximum gross floor area on a lot or parcel to the area of the lot or parcel that is permitted pursuant to the land development regulations of a local government.

- (l) "Housing Cost" means the sum of actual or projected monthly payments for any of the following associated with for-sale affordable housing units: principal and interest on a mortgage loan, including any loan insurance fees; property taxes and assessments; fire and casualty insurance; property maintenance and repairs; homeowner association fees; and a reasonable allowance for utilities.
- (m) "Housing Development" means construction, including rehabilitation, projects consisting of five or more residential units, including single-family, two-family, and multiple-family residences for sale or rent.
- (n) "Incentives" mean one or more of the following:
 - 1. affordable housing incentives;
 - 2. bonus ratio; and
 - 3. density bonus.
- (o) "Low-Income Housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.
- (p) "Moderate-Income Housing" means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.
- (q) "Public Benefit Amenity" means one or more features for public use or benefit contained in a development that will entitle the development to a bonus ratio or a density bonus, as applicable, including, but not limited to:
 - 1. shopping atriums;
 - 2. plazas, parks, and other open spaces;
 - 3. overhead weather protection and street arcades;
 - 4. performing arts theaters;
 - 5. museums;
 - 6. access to transit stations and transit easements;
 - 7. provision of child day-care centers;
 - 8. provision of affordable housing as part of a nonresidential development; and
 - 9. [other].
- (r) "Unified Incentives Ordinance" means an ordinance that provides incentives for both:
 - 1. provision of affordable housing; and
 - 2. dedication of open space and/or provision of community design amenities; and that complies with all requirements of this Section for both an affordable housing incentives ordinance and a community design and open space incentives ordinance.

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- (4) The legislative body of a local government may adopt and amend an affordable housing incentives ordinance only after it has adopted a local comprehensive plan that contains:
 - (a) a housing element pursuant to Section [7-207]; and
 - (b) a policy in written and/or mapped form that encourages affordable housing incentives.
 - (5) The legislative body of a local government may adopt and amend a community design and open space incentives ordinance only after it has adopted a local comprehensive plan that contains:
 - (a) a housing element pursuant to Section [7-207] if a density bonus for residential development for the public benefit amenity of a plaza, park, or other open spaces is authorized; and
 - (b) a community design element pursuant to Section [7-214] if any other type of bonus ratio is authorized; and
 - (c) a policy in written and/or mapped form that describes the relationship between the applicable public benefit amenities and the density bonus or bonus ratio and supports the granting of such density bonus or bonus ratio.
 - (6) An affordable housing incentive ordinance, a community design and open space incentives ordinance, or a unified incentives ordinance shall include the following minimum provisions:
 - (a) a citation to enabling authority to adopt and amend the ordinance;
 - (b) a statement of purpose consistent with the purposes of land development regulations pursuant to Section [8-102(2)] and with the purposes of this Section;
 - (c) a statement of consistency with the local comprehensive plan that is based on findings made pursuant to Section [8-104];
 - (d) definitions, as appropriate for such words or terms contained in the affordable housing incentive ordinance. Where this Chapter or Section defines words or terms, the ordinance shall incorporate those definitions, either directly or by reference;
 - (e) procedures for the review of applications for incentives;
 - (f) a requirement that every developer that is to receive incentives shall enter into a development agreement with the local government;
 - (g) designation of an officer or body to review and approve applications for incentives; and
 - (h) provisions for enforcement, including the issuance of certificates of compliance.
 - (7) An affordable housing incentives ordinance or a unified incentives ordinance shall also include the following minimum provisions:
 - (a) a requirement that, where a developer proposes a housing development within the jurisdiction of the local government, the local government shall provide the developer with affordable housing incentives for the production of affordable housing within the development if the developer meets the requirements set forth in paragraphs (11) and (12) below; and
 - (b) provisions to ensure that once affordable housing is built through subsidies or other means as part of a housing development, its availability will be maintained through measures that establish income qualifications for affordable housing renters or purchasers, promote affirmative marketing measures, and regulate the price and rent, including resale price, of affordable housing units.

- (8) A community design and open space incentives ordinance or a unified incentives ordinance shall also include the following minimum provisions:
 - (a) a statement of the types or categories of public benefit amenities for which a bonus ratio or density bonus shall be authorized, the amount of the respective bonus ratio or density bonus, and the zoning use district or overlay district to which public benefit amenity and the respective bonus ratio or density bonus apply;
 - (b) locational and other development standards for the public benefit amenities, including a statement of the minimum bonusable area that a public benefit amenity must contain in order to be eligible for a bonus ratio or a density bonus; and
 - (c) requirements for permanent public access to the public benefit amenity, including signage indicating the nature of the public access, secured by either:
 1. a conveyance of the plaza, park, or other open space, or access to transit stations or transit easements, to the local government or appropriate governmental unit as a public use as a condition of approval of the development permit, provided that the conveyance is in a form approved by the attorney of the local government or governmental unit; or
 2. where the public benefit amenity will not be owned by the local government or another governmental unit, provisions in the development agreement requiring permanent maintenance by the property owner, except that permanent public access may be limited to normal business hours.
- (9) An affordable housing incentives ordinance or a unified incentives ordinance may require that any new housing development within the jurisdiction of the local government contain at least [15] percent affordable housing if such a requirement is consistent with a policy contained in the local comprehensive plan. The incentives offered to the developer, whether density bonuses, development incentives, or both, shall be at least of equivalent financial value to the cost of making the affordable housing units affordable.
- (10) A community design and open space incentives ordinance or a unified incentives ordinance may:
 - (a) include a manual of graphic and written design guidelines to assist developers in the preparation of applications for community design and open space incentives, but such guidelines shall be advisory only;
 - (b) include a statement of the maximum bonusable area that a public benefit amenity may contain in order to be eligible for a bonus ratio or a density bonus;
 - (c) include a provision that allows the developer to provide the public benefit amenity offsite as a condition of receiving a bonus ratio or density bonus, including standards of proximity of the development to the off-site public benefit amenity; and
 - (d) be adopted as an overlay district to all or portions of existing zoning use districts. The boundaries of the overlay district shall be shown on the zoning map pursuant to Section [8-201(3)(o)].
- (11) Where a developer proposes a housing development that is to be an affordable housing development, the local government shall either:
 - (a) grant a density bonus and at least one development incentive, unless the local government makes a written finding that the development incentive is not necessary to reduce the price or rent of the dwelling units in order to ensure that they are affordable housing; or

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- (b) provide, in lieu of subparagraph (a) above, development incentives of equivalent financial value based upon the land cost per dwelling unit. The value of such equivalent development incentives shall equal at least the land cost per dwelling units that would result from a density bonus and shall contribute significantly to the economic feasibility of providing the affordable housing units.
- (12) The development agreement entered into between the developer of a housing development that is to be an affordable housing development and the local government shall include provisions to ensure the availability of affordable housing for sale or rent.
- (a) The development agreement shall provide for a period of availability for affordable housing as follows:
1. Newly constructed low- and moderate-income sales and rental dwelling units shall be subject to affordability controls for a period of not less than [15] years, which period may be renewed pursuant to the development agreement;
 2. Rehabilitated owner-occupied single-family dwelling units that are improved to code standard shall be subject to affordability controls for at least [5] years.
 3. Rehabilitated renter-occupied dwelling units that are improved to code standard shall be subject to affordability controls on re-rental for at least [10] years.
 4. Any dwelling unit created through the conversion of a non-residential structure shall be considered a new dwelling unit and shall be subject to affordability controls as delineated in subparagraph (a) 1 above.
 5. Affordability controls on owner- or renter-occupied accessory apartments shall be applicable for a period of at least [5] years.
 6. Alternative living arrangements not otherwise described in this subparagraph shall be controlled in a manner deemed suitable to the local government and shall provide assurances that such arrangements will house low- and moderate-income households for at least [10] years.
- (b) In the case of for-sale housing developments, the development agreement shall include the following affordability controls governing the initial sale and use and any resale:
1. All conveyances of newly constructed affordable housing dwelling units subject to the affordable housing incentives ordinance that are for sale shall contain a deed restriction and mortgage lien, which shall be recorded with the county [recorder of deeds]. Any restrictions on future resale shall be included in the deed restriction as a condition of approval enforceable through legal and equitable remedies.
 2. Affordable housing units shall, upon initial sale, and resale in the period covered by the development agreement, be sold to eligible low- or moderate-income households at an affordable sales price and housing cost.
 3. Affordable housing units shall be occupied by eligible low- or moderate- income households during the period covered by the development agreement.
- (c) In the case of rental housing developments, the development agreement shall include the following affordability controls governing the use of affordable housing units during the use restriction period:

1. rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining affordable housing rental units for qualified tenants;
 2. requirements that owners verify tenant incomes and maintain books and records to demonstrate compliance with the agreement and with the ordinance;
 3. requirements that owners submit an annual report to the local government demonstrating compliance with the agreement and with the ordinance.
- (d) The development agreement shall include a schedule that provides for the affordable housing units to be built concurrently with the units that are not subject to affordability controls.
- (13) The approval of incentives shall constitute a development permit. The incentives shall be part of the unified development permit review process established pursuant to Section [10-201].
- (14) This Section does not limit or require the provision of direct financial aid by the local government, the provision of publicly owned land, or the waiver or reduction of fees, including impact fees pursuant to Section [8-602], or of dedication or exaction requirements pursuant to Section [8-601].
- (15) The [state planning agency or state department of development] shall by [date] prepare and distribute a model affordable housing incentives ordinance and related guidelines to assist local governments in complying with this Section.

EXCERPTS FROM THE AMERICAN PLANNING ASSOCIATION POLICY GUIDE ON HOUSING

This is an edited excerpt from the American Planning Association's Policy Guide on Housing that pertains to issues presented in this report; namely, housing supply and demand, housing location, and the use of comprehensive planning, zoning, and subdivision controls as a means for improving housing supply and affordability in a region or local jurisdiction. The full policy guide on housing is available on the APA web site at www.planning.org.

Adopted by the Chapter Delegate Assembly, April 25, 1999

Ratified by the Board of Directors, April 26, 1999

This Policy Guide is dedicated to the late Marsha Ritzdorf, planner, educator, and tireless advocate for social equity.

FINDINGS

1. There were 97.7 million households in the U.S. in 1995. Of these, 63.5 million were owner-occupants and 34.2 million were renters. Almost one-third (31 percent) of all households lived in central cities, while another 31 percent lived in suburbs. Thirty-eight percent lived in rural areas.¹

Housing Quality and Housing Costs

2. Homeowners as well as renters face problems with housing quality and affordability. According to the American Housing Survey, 16.1 million renters and 15.9 million homeowners experienced moderate or severe housing problems in 1995. Moderate housing problems include housing costs greater than 30 percent of household income, overcrowding, and moderately inadequate housing conditions.²

Severe housing problems, on the other hand, include housing costs greater than 50 percent of household income and/or severely inadequate housing conditions. Households spending more than 30 percent of income for housing have little money available to meet other basic needs, such as food and clothing, much less disposable income to contribute to the economy.

3. Affordable rental units are diminishing in number. Between 1993 and 1995, 900,000 rental units affordable to households with incomes at or below 50 percent of area median were lost due to expiration of public subsidies, demolition of substandard subsidized units, and redevelopment.^{3,4} From 1995 to 1997, the federal government issued no new Section 8 Certificates or Vouchers to increase the number of renter households assisted through this program or to offset expiring project-based subsidies. The 1998 and 1999 HUD budget provided the first increases in new Section 8 Vouchers, intended for welfare to work transitions. Nevertheless, these allocations do not begin to offset the impact of expiring subsidies for privately owned low-rent housing.⁵

4. Research demonstrates that affordable housing does not negatively affect surrounding single-family property values. In some instances, affordable housing development can actually trigger increases in surrounding property values.⁶

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Jobs/Housing Balance

9. Low-income households remain concentrated in central cities while new low-wage jobs are created in suburbs. One of every five urban families lived in poverty in 1996 compared to fewer than one in 10 families in the suburbs. From 1991 to 1994, 87 percent of new low-skilled jobs were created outside of central cities.⁷

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GENERAL POLICIES

General Policy 1. Planners should strive to identify and address housing needs in urban, suburban, and rural areas.

General Policy 2. Planners should promote, through comprehensive plans, zoning codes, and subdivision regulations, housing stock in a wide range of prices, with a variety of types and configurations, to offer choice in location, type, and affordability to all members of the community.

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General Policy 4. Planners should help to eliminate housing discrimination in their communities.

General Policy 5. Planners should work to minimize the economic stratification of cities by income level, segregating the poor into one district, the middle-class into another, and the rich into yet another. Although this has been federal policy for more than 20 years, its implementation at the local level has been slow.

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General Policy 7. Planners should promote better balance between the location of jobs and housing.

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General Policy 9. Planners must work with nonprofit as well as for-profit residential developers to implement housing goals.

SPECIFIC POLICIES

1. Planning

a. Residential development is a principal feature of communities, and should be represented in the comprehensive plan not only as a land use but also as an important element of community vitality and economic health. Planners should encourage their jurisdictions to develop and maintain a comprehensive plan housing element that analyzes housing needs for all types and price ranges, and recommends specific measures to address gaps in the housing supply.

b. Planners should help preserve the environment by encouraging residential construction that is consistent with the principles of smart growth. Planners should promote housing that is energy efficient and does not place undue demands on the environment. Regional plans should promote compact and clustered development patterns while discouraging leapfrogging and sprawl development.

c. Planners should encourage their jurisdictions to adopt and implement plans and policies that reflect federal and state requirements regarding housing, that promote housing choice and affordability across all price ranges, and that make effective use of federal, state, and local programs and incentives to meet housing needs not adequately addressed through the marketplace.

d. APA National and Chapters should support national, state, and local policies that contribute to residential stability, affordability, and choice. These policies should not be limited to traditional homeownership models, but embrace nontraditional forms of homeownership, such as limited equity cooperatives, mutual housing, and community land trusts. Similarly, provision should be made for quality rental housing, not only through traditional multifamily forms, but also through single-family, mixed-use, and mixed-tenure development.

e. Planners should encourage housing strategies to revitalize older urban neighborhoods, while taking steps to minimize displacement of existing businesses and residents. Such strategies might include mixed-use and infill development, mixed-income housing, homeownership zones, urban homesteading, and housing rehabilitation.

f. Planners should promote infill housing strategies that encourage compatibility with existing housing stock. Planners should be at the forefront of ensuring that housing not only has good immediate utility, but also represents a long-term, value-added investment to the neighborhood and the larger community.

g. Planners should use their technical skills to weigh objectively whether rehabilitation or clearance and redevelopment of severely blighted neighborhoods presents the most viable solution to urban blight. In making such an evaluation, planners should involve neighborhood residents and institutions in the planning process, and examine whether financing is in place to complete redevelopment activities after initial clearance of the site.

h. Planners should engage neighborhoods in planning for revitalization, making use of collaborative planning tools and techniques that bring a wide range of interests and voices to the table, and that empower citizens to exercise influence in and access to the policy development process. (See APA Policy Guide on Neighborhood Collaborative Planning, adopted April 1998.)

i. APA National and chapters should encourage and facilitate collaboration and coordination among planning, housing, and code enforcement trade associations and interest groups.

j. APA National and Chapters recognize that housing is a regional issue in metropolitan areas, usually requiring interjurisdictional dialogue and cooperation. APA National and Chapters should support a regional fair-share distribution of affordable housing, particularly in proximity to moderate- and low-wage jobs.

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3. Affordable Housing

a. APA National and Chapters should collaborate with nonprofit and for-profit housing providers to educate citizens and elected officials about affordable housing and work to eliminate negative perceptions and stereotypes. Zoning requests for residential development affordable to low-income households should not be arbitrarily denied.

b. APA National and Chapters should encourage national, state, and local initiatives designed to preserve and expand affordable housing opportunities at a variety of income levels. Planners should work to ensure that scarce housing subsidies are used to provide long-term benefits to those in need of assistance. In general, capital subsidies for construction or acquisition of housing should also be accompanied by measures that ensure long-term affordability. (See APA Policy Guide on The Supply of Public and Subsidized Housing, adopted October 18, 1991.)

c. Planners should expand affordable housing opportunities by facilitating the development and preservation of accessory apartments, cluster housing, elder cottages, manufactured housing, mixed-income housing, shared residences, and single room occupancy (SRO) developments.

d. APA National and Chapters should work to preserve the federal Low-Income Housing Tax Credit, a critical tool for affordable housing finance, and to encourage accountability in the management of LIHTC projects.

e. APA National and Chapters should work to renew and expand the availability of federal funding for Section 8 Certificates and Vouchers or alternative models of direct rent subsidy to enable low-income households to afford decent housing in the private market. Alternative models should not be limited to federally supported initiatives but also embrace state and local programs.

f. APA National and Chapters should support, based on local conditions, controls on conversion of rental housing to condominiums where it affects the availability of affordable housing; controls on unreasonable increases in rent; and requirements for just cause for eviction of renters. These tools should remain available to local governments for use in response to locally defined needs, and not preempted by state or federal legislation.

g. APA National and Chapters should work with state, federal, and local governments to facilitate economic development strategies that will yield living wage jobs and enable families and individuals to afford housing without the necessity of additional public subsidies and incentives.

h. APA National and Chapters should support and promote programs and incentives that encourage private and nonprofit development of affordable housing to supplement publicly owned and managed housing, and that complement local housing delivery systems. These measures include density bonuses, land donations, low-income housing tax credits, and commercial linkage impact fees.

i. APA National and Chapters should support, based upon local conditions, the provision of affordable housing for farm employees and their families, and other seasonal workers.

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6. Jobs/housing Balance

a. APA National and Chapters should work to preserve existing housing stock near major employers in order to reduce transportation and air quality problems, and create housing opportunities in close proximity to new suburban, exurban, and rural employment centers. Economic development and housing planners, in conjunction with large employers (if feasible), should perform housing impact studies to analyze the availability of affordable housing for their workers in proximity to work locations.

b. APA National and Chapters should emphasize the role of an adequate supply of affordable housing in economic development strategies.

c. APA National and Chapters should encourage employers to invest in their workers and their neighborhoods by supporting employer-assisted housing programs, especially ones that encourage employees to own or rent in the neighborhood adjacent to the employer.

d. APA National and Chapters should support transportation and transit improvements that allow low-income households in central cities to access jobs in surrounding suburbs.

e. APA National and Chapters encourage new employment centers in or near existing residential neighborhoods, provided such development can be accomplished without displacement of existing residents.

f. Local governments should, in coordination with regional planning efforts, identify strategies to meet housing demand generated by economic development.

ENDNOTES

1. National Low Income Housing Coalition, *Advocates Resource Book: Low Income Housing Profile*, 1998.
2. U.S. Department of Housing and Urban Development. "Rental Housing Assistance: The Crisis Continues," April 1998.
3. U.S. Department of Housing and Urban Development. "Rental Housing Assistance: The Crisis Continues, Executive Summary," April 1998.
4. U.S. Department of Housing and Urban Development, *Waiting in Vain; Update on America's Rental Housing Crisis* (Washington, D.C., 1999).
5. Ibid.
6. Ron Smith, ed., *The Las Vegas Metropolitan Area Project* (Las Vegas: The University of Nevada, Las Vegas, 1998), pp.145-66. See also Michael S. Marous, "Low-Income Housing in our Backyards: What Happens to Residential Property Values," *Appraisal Journal* 64: 27-33 and Marco A. Martinez, "Effects of Subsidized and Affordable Housing on Property Values: A Survey of Research" (Sacramento: California Department of Housing and Community Development, 1988); Xavier de Souza Briggs, Joe T. Darden, and Angela Aidala, "In the Wake of Desegregation: Early Impacts of Scattered-Site Public Housing on Neighborhoods in Yonkers, New York," *Journal of the American Planning Association* (Winter 1999): 27-49.
7. U.S. Department of Housing and Urban Development, "The State of the Cities: 1998."