

**AMENDMENT TO THE DURHAM COUNTY POLICY
FOR CONVEYING COUNTY OWNED REAL PROPERTY**

WHEREAS, the Board of County Commissioners (hereinafter the “Board”) has found that the support and encouragement of affordable housing throughout the County of Durham is both necessary and expedient; and

WHEREAS, pursuant to N.C.G.S. 160A-274, the County is authorized to convey property to another governmental entity for public purposes, including housing affordable to persons of low or moderate income; and

WHEREAS, pursuant to N.C.G.S. 105-376(b), real property which the County acquires through tax foreclosure may be sold at such price as the governing body approves; and

WHEREAS, pursuant to N.C.G.S. 153A-378(3) the County is authorized to convey property by private sale to non-profit organizations providing affordable housing to persons of low or moderate income; and

WHEREAS, this Policy establishes uniform procedures and standards for the conveyance of real property, acquired by the County through tax foreclosure,

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOTH RESOLVE:

I. PURPOSE AND METHODS OF CONVEYANCE

A. *CONVEYANCE FOR AFFORDABLE HOUSING*

The County shall further its adopted Affordable Housing Goals by prioritizing the conveyance of real property for affordable housing by offering all Suitable Parcels to the City of Durham for creating or preserving owner-occupied affordable housing, excluding any parcels retained by the County for an identified public purpose. The conveyance shall be in accordance with N.C.G.S. 160A-274, and the consideration shall be equal to the County’s investment as determined by the Tax Administrator.

B. *CONVEYANCE FOR OTHER PUBLIC PURPOSE*

Suitable Properties deemed by the City of Durham to be unacceptable for its affordable housing program shall be made available to the following entities for other public purposes, in the following order:

1. City of Durham for other public purposes. Consideration shall be equal to the County's investment as determined by the Tax Administrator.
2. Qualified 501(c)(3) non-profit organizations that develop affordable owner-occupied housing in accordance with N.C.G.S. 153A-378. Consideration shall be \$10.

C. CONVEYANCE THROUGH PUBLIC BID

Properties not desirable for other public purposes shall be advertised for public bid in accordance with N.C.G.S. 160A-269.

II. DEFINITIONS

For this policy, the following definitions shall apply:

1. **Suitable Parcels** shall mean parcels that:
 - a) do not have environmental constraints that make construction of a dwelling counter to established public policy. The criteria for such environmental constraints includes, but may not be limited to: parcels with greater than 50% within designated wetland, stream buffer, floodway or floodplain.
 - b) Exceptions to (a) may be made for parcels that are adjacent to other City-owned parcels such that combining the county-owned parcels with the city-owned parcels could make the new combined parcel Suitable under this definition.
2. **Affordable Housing** shall mean single- or multi-family owner-occupied dwellings units developed for persons whose family income is equal to or less than 80% of the HUD published area median income for the Durham, North Carolina MSA.
3. **Qualified Non-profit Organization** is a 501(c)(3) nonprofit organization that develops Affordable Owner-Occupied Housing for persons with family income equal to or less than 80% of the HUD published Area Median Income (AMI) for the Durham, North Carolina MSA.

III. PROCESS AND PROCEDURES

A. CONVEYANCE PROCEDURES FOR PUBLIC PURPOSES

1. The County Manager shall direct the County Real Estate Officer to:
 - a) identify all real property acquired through tax foreclosure, received as a gift or donation, or as a deed-in-lieu of foreclosure, and for which no County department or Durham Public Schools seeks to retain for a public purpose; and
 - b) provide a list of all Suitable Parcels to the City of Durham Department of Community Development for evaluation and determination of the utility of the parcel for creating or preserving affordable housing.
2. A written response from the City accepting or rejecting each parcel of County real property shall be submitted to the County on a form provided by the County.
3. The proposed conveyance of accepted parcels to the City's Community Development Department for affordable housing shall be brought before the Board for consideration and approval. It is within the Board's sole discretion to approve or reject the potential conveyance.
4. If a parcel is rejected by the Community Development Department of the City, it is then made available to all other City Departments for acceptance for a public purpose.
5. If no City department expresses a need to acquire the parcel for a specific public purpose, the County Manager, or his designee, shall issue a Request for Proposals from Qualified 501(c)(3) Non-profit Organizations that develop affordable owner-occupied housing. Proposers shall provide:
 - a) information needed to confirm eligibility as defined in this policy, including proof of non-profit status;
 - b) history of affordable housing projects developed by the proposer; and
 - c) plans for the development of the available parcel(s).

Proposals shall be evaluated with the assistance of the City of Durham Department of Community Development, and a recommendation shall be presented to the Board for consideration and approval. It is within the Board's

sole discretion to approve or reject the recommended conveyance.

6. Upon approval of the conveyance by the Board, the County will enter into a purchase agreement with the successful non-profit organization, which will:

- a) provide closing instructions;
- b) require the organization to maintain the property and any structures therein in a manner consistent with City of Durham minimum housing code, including but not limited to mowing the grass, and keeping the property free of debris while under the ownership of the non-profit organization; and
- c) The County shall convey the property to the approved organization via Non-Warranty Deed pursuant to N.C.G.S. 153A-378, and the conveyance will include a restrictive covenant which requires the non-profit to convey the improved property:
 - i. to person(s) meeting the income restriction of no more than 80% AMI or
 - ii. whether improved or unimproved, to another non-profit entity which shall be required to meet the same income restriction when conveying improved property to a homeowner.

B. CONVEYANCE PROCEDURE AS SURPLUS PROPERTY

Parcels that are not retained by the County, or conveyed to Durham Public Schools, or to the City for affordable housing, or for another public purpose, shall be deemed surplus and advertised to the public using the upset bid process, pursuant to N.C.G.S. 160A-269, and in accordance with the following procedure.

1. The Real Estate Officer shall make available to all interested parties the “Upset Bid Instructions,” and “Bid for Property Forms.”
2. Any offers shall be received by the Real Estate Officer on behalf of the Clerk to the Board of County Commissioners.
3. The Real Estate Officer shall collect a deposit equal to 5% of the highest bid amount. This deposit shall be refunded if and when a successful upset bid is received.

4. The Real Estate Officer shall present a Resolution to open the upset bid process to the Board for approval, and notice of upset bid sale shall be properly advertised.
5. If a successful upset bid is received within ten (10) days, a new deposit is collected, and the highest bid shall be advertised for a new upset bid period of ten (10) days. This cycle shall repeat until no further upset bids are received.
6. Once a final qualifying bid is received, that offer is presented to the Board for a decision to accept or reject the offer. The Board reserves the right to reject any or all offers.
7. Should the Board accept the final offer, the deed shall be prepared in accordance with this policy and governing statutes as follows:
 - a) Warranty deed for non-tax foreclosure, non-deed-in-lieu, and non-donated properties, or
 - b) Non-warranty deed for tax foreclosure, deed-in-lieu, and donated properties.

This policy shall supersede the Board of County Commissioners Policy Procedure for Sale of County-Owned Real Property, effective date December 9, 1997.

This policy shall also supersede Amendment to the Durham County Policy for Conveying Real Property for Affordable Housing, effective date January 22, 2007.