

**AMENDMENT TO THE DURHAM COUNTY POLICY
FOR CONVEYING COUNTY-OWNED SURPLUS 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, received as a gift or donation, or acceptance of a deed-in-lieu of foreclosure,

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

I. 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 so expensive as to render it infeasible for the purpose intended or are so environmentally sensitive as to render construction upon the parcel directly counter to established public policy.
 - b) Exceptions to (a) may be made for parcels that are adjacent to other City-owned parcels such that combining the parcels could make the new combined parcel Suitable under this definition.
2. **Affordable Housing** shall mean single- or multi-family rental or owner-occupied dwelling units developed for persons whose family income is equal to or less than 80% of the HUD published Area Median Income (AMI) for the Durham, North Carolina MSA.
3. **Qualified Non-profit Organization** is a 501(c)(3) nonprofit organization that develops Affordable Housing for persons with family income equal to or less than

80% of the HUD published AMI for the Durham, North Carolina MSA.

II. PURPOSE AND METHODS OF CONVEYANCE

A. *CONVEYANCE TO CITY OF DURHAM FOR AFFORDABLE HOUSING*

The County shall further its adopted Affordable Housing Goals by prioritizing the conveyance of County-owned real property for which no current or future capital needs have been identified by either Durham County or Durham Public Schools, for Affordable Housing by offering all Suitable Parcels to the City of Durham for creating or preserving affordable owner-occupied and rental housing, excluding any parcels retained by the County for any public purpose.

Consideration to be paid by the City is \$10, with restrictions, in accordance with N.C.G.S. 160A-274.

B. *CONVEYANCE TO CITY OF DURHAM FOR OTHER PUBLIC PURPOSE*

Parcels deemed by the City of Durham to be unacceptable for its affordable housing program shall be made available to the City of Durham for other public purpose. Consideration shall be equal to the County's investment as determined by the Durham County Tax Administrator.

C. *CONVEYANCE TO A QUALIFIED NON-PROFIT FOR AFFORDABLE HOUSING*

For any parcel declined by the City of Durham for Affordable Housing, or for any other public purpose, the County will seek proposals from Qualified Non-profit Organizations that develop affordable owner-occupied or rental housing in accordance with N.C.G.S. 153A-378. Consideration shall be \$10.

D. *CONVEYANCE TO THE GENERAL PUBLIC*

Properties not desirable for any of the purposes outlined in II.A through C above shall be advertised for public bid in accordance with N.C.G.S. 160A-269.

III. PROCESS AND PROCEDURES

A. *CONVEYANCE TO CITY OF DURHAM FOR AFFORDABLE HOUSING*

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 which, after considering future capital improvement needs, no County department or Durham Public Schools seeks to retain for a current or future 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 utility of the

parcel for creating or preserving Affordable Housing.

2. A written response accepting or rejecting each parcel of County real property shall be submitted by the City to the County on a form provided by the County.

3. The proposed conveyances shall be brought before the Board for consideration and approval. It is within the Board's sole discretion to approve or reject any recommended conveyance.

4. The conveyance of accepted parcels to the City of Durham for Affordable Housing shall be subject to the following restrictions:

- a) City cannot sell a parcel to any other party for any amount that exceeds its actual cost to acquire and provide infrastructure for the purpose of creating or preserving Affordable Housing. Should any such sale occur, the City agrees to compensate the County the full amount of the County's investment in the parcel, or the proceeds of the sale, whichever is less; and
- b) City agrees to require that any organization selected to develop a parcel for Affordable Housing be required to begin construction within 5 years of acquiring a parcel.
- c) Any parcel developed as rental property, whether single-family or multi-family, shall retain its category of affordability (i.e. for persons whose family income is at or below 80% AMI) in accordance with any requirements of local, state and federal agencies funding the project.
- d) City agrees to provide to the County written reports on the status of each conveyed parcel, at 3 and 5 years from the date of conveyance. If development of Affordable Housing has not occurred after 5 years from conveyance to an organization for this purpose, City agrees to provide written status updates no less than once per year until such development is complete.

B. CONVEYANCE TO CITY FOR OTHER PUBLIC PURPOSE

1. If a parcel is declined by the Community Development Department of the City for Affordable Housing, the parcel is then made available to all other City Departments for acceptance for a public purpose.

2. Conveyance of a parcel under this Section B. shall be for the sum equal to the County's total investment, as determined by the Durham County Tax

Administrator.

C. CONVEYANCE TO NON-PROFITS FOR AFFORDABLE HOUSING

1. If no City department expresses a need to acquire the parcel for a specific public purpose in accordance with Section B. of this policy, the County Manager, or his designee, shall issue a Request for Proposals from Qualified Non-profit Organizations that develop affordable owner-occupied or rental housing.

a) Proposers shall provide:

- i. information needed to confirm eligibility as defined in this policy, including proof of non-profit status;
- ii. history of affordable housing projects developed by the proposer; and
- iii. plans for the development of the available parcel(s).

b) Proposals shall be evaluated with the assistance of staff from 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.

2. 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) require the County to 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 covenant which requires the non-profit to convey the improved property with the following restrictions:
 - i. Conveyance must be 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.

d) Any parcel developed as rental property, whether single-family or multi-family, shall retain its category of affordability (i.e. for persons whose family income is at or below 80% AMI), in accordance with all local, state and federal project funding source requirements.

D. CONVEYANCE AS SURPLUS PROPERTY

1. Parcels that are not retained by the County, or conveyed to Durham Public Schools, or conveyed pursuant to Sections II. A through C above 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.

2. The Real Estate Officer shall make available to all interested parties the “Upset Bid Instructions,” and “Bid for Property Forms.”

3. Any offers shall be received by the Real Estate Officer on behalf of the Clerk to the Board of County Commissioners.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.