APPENDIX 3

MODEL INCLUSIONARY HOUSING ORDINANCE

The model inclusionary housing ordinance that follows is only a starting place. It must be modified to conform to your local government's needs.

AFFORDABLE HOUSING INCLUSIONARY ORDINANCE

AN ORDINANCE OF _____ COUNTY, FLORIDA,

ESTABLISHING THE COUNTY'S AFFORDABLE HOUSING INCLUSIONARY DEVELOPMENT ORDINANCE; DESCRIBING THE INTENT AND PURPOSE OF THE ORDINANCE; PROVIDING APPLICABILITY, PROVIDING PAYMENT IN LIEU OPTION, PROVIDING FOR EXEMPTIONS, PROVIDING FOR DEVELOPMENT INCENTIVES; PROVIDING FOR ADMINISTRATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF _____ COUNTY, FLORIDA:

SECTION I. CREATION

The _____ County Affordable Housing Inclusionary Development Ordinance is hereby created as follows:

SECTION II. PURPOSE AND INTENT

The purpose and intent of the Inclusionary Development Ordinance is as follows:

1. To implement the goals, policies, and objectives of the _____ Comprehensive Plan to increase the supply of housing that is available and affordable to very-low, low, and moderate income persons; and

2. To provide a range of housing opportunities for those who work in _____ County and who provide the community with essential services but may be unable to pay market rents or housing prices in the community; and

3. To ensure that affordable housing opportunities are available throughout the entire community; and

4. To ensure that such housing remains in the affordable housing stock; and

5. To mitigate the impacts of market-rate housing on the supply and cost of very-low, low and moderate income housing, due to the decreasing available supply of developable sites in _____ County and the upward pressure on the pricing of all housing in the county; and

6. To provide incentives to developers of residential developments providing inclusionary housing; and

7. To provide alternative methods for compliance with the intent of this Ordinance, including payment in lieu to a Housing Trust Fund.

SECTION III. DEFINITIONS

The following words and phrases, as used in this Section, have the following meanings:

1. Affordable Housing Units *(either refer to the definition in the local SHIP ordinance. or draft a definition such as):*

Affordable Units are housing for which monthly mortgage payments (including taxes and insurance), or monthly rents (including utilities), do not exceed thirty percent (30%) of that amount which represents the percentage of the median adjusted gross annual income for the households qualifying under the definitions of very-low, low, and moderate income persons, as provided by the U.S. Department of Housing and Urban Development data provided annually to _____ County by the Florida Housing Finance Corporation.

2. Developments of Regional Impact - as defined in Part II, Chapter 380.06, Florida Statutes

3. Eligible Households - *(you may want to redefine, or refer to the definition in the local SHIP ordinance)*

4. Inclusionary Housing Trust Fund - a trust fund established by _____ County to support the development and preservation of affordable housing (*you should establish a trust fund separate from the local SHIP trust fund*)

SECTION IV. APPLICABILITY

1. The provisions of this Section shall apply to all developments seeking subdivision approval, special permits with site plan review such as Developments of Regional Impact (DRIs) or Planned Unit Developments (PUDs) that propose to develop 50 or more dwelling units of new construction, (hereinafter sometimes referred to as Inclusionary Development). Developments shall not be segmented or phased in a manner to avoid compliance with these provisions.

For the purposes of this policy two or more developments shall be aggregated and considered as one development, if they are no more than 1/4 mile apart and any two of the following criteria are met:

(i) There is a common interest in two or more developments.

(ii) The developments will undergo improvements within the same five-year period.

(iii) A master plan exists submitted to a governmental body addressing two or more of the developments.

2. Developments having more than 50 units, shall provide a minimum of fifteen percent (15%) of the total number of permitted dwelling units on-site as Affordable Units as follows: Ten percent (10%) of the Affordable Units shall be affordable to moderate income families (those earning less than 120% of area median income) and five percent (5%) of the Affordable Units shall be affordable to low income families (those earning less than 80% of the area median income). Where the application of this formula results in a fractional dwelling unit, that fractional unit shall be considered as one Affordable Unit.

3. All Affordable Housing Units shall remain affordable in perpetuity though the use of a deed restriction that shall be recorded in the public records of _____ County.

4. All Affordable Housing Units shall be initially and subsequently certified as to unit and income household eligibility by the _____ County Housing Office, based on the current SHIP income guidelines provided annually by the Florida Housing Finance Corporation; and, in the event of rental units, shall be monitored at least annually thereafter.

SECTION V. DEVELOPER INCENTIVES

1. All eligible households shall have the benefit of additional downpayment and closing cost assistance, provided specifically for housing produced pursuant to this inclusionary housing ordinance, within the _____ County SHIP Local Housing Assistance Plan;

2. All Inclusionary Developments providing inclusionary units shall have the benefit of a density bonus as provided pursuant to _____ Ordinance without further review or approval.

3. All Affordable Units constructed pursuant to this Ordinance shall have fees waived for building permits,…(*whatever fees the local government may be able to waive to provide further incentives to the developer*)

All PUD developments developed in accordance with this inclusionary housing ordinance shall have the benefit of PUD pre-application fee and PUD application fee waiver.

SECTION VI. PAYMENT IN LIEU OPTION

1. Although it is intended that Affordable Units be included on-site, _____ County may allow the requirements of this ordinance to be met through the payment of a fee in lieu of construction for Developments with less than 100 residential units, as follows:

a) The fee in lieu of construction shall be equivalent to 25% of the difference between the average proposed selling price of units within a PUD, the current phase of a DRI, and the maximum affordable housing sales price allowed under the _____ County SHIP Home Buyer Program at the time of payments. In no event shall the fee exceed $50,000.

b) A request may be made to the Board of County Commissioner to accept an alternative to the payment in lieu option, in the event some equal or greater contribution is proposed that would further the goals of this ordinance. Examples include, but are not limited to, the donation of developable land in an area that would provide housing choice and accessibility to employment opportunities, or the provision of infrastructure in specific areas where the County plans to build or rehabilitate affordable housing.

c) The Affordable Housing In Lieu Fee shall be deposited in the Inclusionary Housing Trust Fund of _____ County.

Example

80-Unit Development
15% Reserved for Low and Moderate Income Buyers

10% Mod.	8 units
5% Low	4 units
Total =	12 units

With a mean (average) proposed sales price of $175,000:

$175,000
-106,017 (maximum SHIP sales price for _____ County, new construction)
   68,983
   x   .25

$17,245.75 per unit
   x   12
$206,949 payment in lieu due to County

SECTION VII. EXEMPTIONS

The following developments shall be exempt from this Ordinance:

1. Developments intended to accommodate the construction of less than fifty residential units;

2. Residential development provided as part of the County's affordable housing program, or any federal, or state affordable housing and community development programs;

3. Residential development in census tracts where the median family income is equal to or less than the median family income for _____ County, except for Developments of Regional Impact. This Ordinance applies to Developments of Regional Impact having a residential component wherever located.

4. Nursing homes, assisted care living facilities, and retirement homes;

5. School dormitories; and

6. Mobile home and manufactured home parks and subdivisions.

SECTION VIII. ADMINISTRATION

The implementation of the Ordinance shall be administered by the Department of Community Development, *(or whatever the appropriate local office, such as SHIP office is called in your area)* or its successor in interest. Among other things, this Department shall be responsible for certifying the eligibility of applicants before certificates of occupancy or their equivalent are issued inclusionary units and for certifying eligibility of tenants for rental units. *(In this Ordinance or in the ordinance establishing the Inclusionary Trust Fund you may want to provide that a certain portion of the funds may be used for administration).*

SECTION IX. SEVERABILITY

If any work, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed as a separate, district and independent provision and such holding shall not affect the validity of the remaining portion of the Ordinance.

EFFECTIVE DATE

This Ordinance shall become effective according to law.

DULY PASSED AND ADOPTED THIS _____ DAY OF_____, 2001.

By: _____

Board of County Commissioners

ATTEST:

Clerk of the Circuit Court

BY: _____

APPROVED AS TO FORM

_____

County Attorney