

Building Codes for Affordable Housing Developments

The 2000 Legislature authorized implementation of the first edition of a unified statewide Florida Building Code. Now in its fifth edition, the purpose of the code is to “establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.” The Florida Building Code is harmonized with the Florida Fire Prevention Code, which is developed by the Department of Financial Services, Office of the State Fire Marshall, to establish unified and consistent standards.

As a minimum technical performance standard for all construction in the state, the Florida Building Code applies to affordable housing developments. There are no Code exemptions, special considerations or compliance carve-outs provided for affordable housing.

Adopted and updated with new editions triennially by the Florida Building Commission, the Code may also be amended annually to incorporate interpretations, clarifications and to update standards. Minimum requirements for permitting, plans review and inspections are established by the Code but local jurisdictions may adopt additional administrative requirements that are more stringent. Issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by representative stakeholder groups in an open process with several opportunities for public input.

While the health, safety and welfare of the public are paramount concerns embedded within the Florida Building Code, the Code also serves to protect property investments and save insurers, the state and local governments money in mitigation costs linked to natural disasters. It is also important to note that the intent of the Code as outlined in s. 553.72, F.S., provides for flexibility in meeting performance requirements, explicitly mandating that the Code “is affordable, does not inhibit competition, and promotes innovation and new technology.” In practice, this flexibility allows the use of alternative technologies across a range of price points thus fostering novel, cost-conscious and cost-effective ways to meet code requirements.

The Code’s commitment to affordability is also delineated in the specifications governing the adoption of local government technical amendments. Section 553.79, (4)(b), F.S., requires any such amendments provide a fiscal impact statement. The fiscal impact statement must include “the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.”

Although the Code is uniform in nature, there are a limited number of outright exemptions for certain buildings and structures such as facilities associated with railroads, temporary movie or television sets, nonresidential farm buildings and certain family mausoleums. Section 553.73(10)(k), F.S., provides that

the Building Commission “may recommend to the Legislature additional categories of buildings, structures or facilities which should be exempted from the Florida Building Code.”

Workgroup reviews of reports and studies found no examples from other states of ‘reduced standards’ building codes specifically designed for affordable housing to reduce costs. The majority of cost of housing reduction ideas proffered in the reviewed commentaries centered around minimizing zoning and other development requirements and impact fees. This appears to echo findings in Glaser and Gyourko’s *Rethinking Federal Housing Policy* (AEI Press, 2008) which indicate that building code regulations impact mainly in the 1-5 percent cost range, perhaps up to 10 percent.

Finding

The Florida Building Code establishes minimum technical performance requirements to safeguard the public health, safety and general welfare within the state’s built environment. It includes review mechanisms for updating standards, provides flexibility to address issues of construction affordability, and promotes innovation and new technology. All of these features are critical to the successful development of affordable housing. As the 2017 hurricane season vividly displayed, structural strength and safety to property and life are essential to Florida’s residents.

Recommendation

While the idea of a unique affordable housing-specific building code was explored, the Workgroup recommends that affordable housing developments continue to comply with all standards and performance criteria of the Florida Building Code going forward.