Affordable Housing Planning and Appeal Act:

2018 Non-Exempt Local Government Handbook

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Illinois Housing Development Authority
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Executive Summary

The Illinois General Assembly passed the Affordable Housing Planning and Appeal Act (AHPAA) (310 ILCS 67) in 2003 to address the lack of moderately-priced housing in many Illinois communities. Growth in home values continues to outpace growth in household incomes throughout the Chicago-region and many households who are vital to local economies and who provide critical community services are unable to afford to live in or around the places they work.

The law established a process for identifying communities with the most acute shortage of local housing stock available at an amount that would be affordable to:

- Homebuyers at 80% of the regional median household income.
- Renters at 60% of the regional median household income.

For larger, urbanized areas, the Area Median Income (AMI) used is for the entire Metropolitan Statistical Area (MSA), while county AMI figures are used for those counties not located within an MSA.

The law identifies these communities, known as Non-Exempt Local Governments (NELG), with two primary criteria:

- Non-Exempt Local Governments must be incorporated municipal governments (e.g., county, town, village, city, etc.) with a population of at least 1,000 people.
- Non-Exempt Local Governments must have a portion of the local year-round housing stock considered affordable that is below 10%, as determined by data from the U.S. Census Bureau and other relevant sources (details on pages 7 - 9).

The law requires Non-Exempt Local Governments:

- To adopt and submit an Affordable Housing Plan (details on page 13) to the Illinois Housing Development Authority (IHDA). Communities that already submitted a plan to IHDA because they were previously identified as Non-Exempt Local Governments are allowed to update their plans, adopt the updated version and submit them again to IHDA.

This handbook was written to accompany the 2018 List of AHPAA Non-Exempt Local Governments. It primarily serves as a reference tool.

The process used to identify the Non-Exempt Local Governments is laid out in the AHPAA statute (details on page 6) and the Illinois Housing Development Authority (IHDA) is responsible for generating this list. IHDA published the first list in 2004, but due to U.S. Census Bureau decennial data availability, a new list was not possible until 2013. IHDA now publishes a new list approximately every five years using the most recent and readily available census data. This is due to more frequent census data availability through the American Community Survey (ACS). While IHDA produces a statewide list of all municipalities, exempt and non-exempt, this handbook only refers to those who are identified as being non-exempt under the AHPAA statute.

The State Housing Appeals Board (SHAB) was established by AHPAA to hear appeals from affordable housing developers who feel that they have been treated unfairly by Non-Exempt Local Governments during the local development approval process. Four of the seven members must be local officials or administrators and three must be from non-exempt AHPAA communities. The SHAB was fully appointed in 2012 and established a set of administrative rules through the Illinois General Assembly's Joint Committee on Administrative Rules in 2013 (published in the Illinois Register V. 37 Issue 15, April 12, 2013). At the time of this manual's publication, no appeals had been filed for SHAB review. To consider an appeal, the Non-Exempt Local Government must have denied approval of a project with an affordable housing component, or granted an approval with conditions that make the proposed project financially infeasible.

Affordable Housing Planning and Appeal Act: Exemption Determination Process

The language within the Illinois Affordable Housing Planning and Appeal Act outlines a process for determining which local governments the law applies. According to the statute (as amended by P.A. 98-0287), this process must be completed by the Illinois Housing Development Authority at least once every five years (recent changes to the statute allow for this more frequent publication of the list with improved availability of appropriate U.S. Census Bureau data). While AHPAA makes certain aspects of the exemption determination process explicit and clear, other implicit steps must be taken to complete the determination. This report intends to make all steps taken by IHDA fully explicit and clear.

The exemption process steps mandated by AHPAA are identified in the following section of this report. Within the law there are two sections that guide the determination of community exemption status.

Statutory Guidance

Section 15 (310 ILCS 67/15) of the law provides definitions, some of which directly affect the determination process. The relevant definitions are highlighted below:

> "Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.
>
> "Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.
>
> "Local government" means a county or municipality.

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

> Sec. 20. Determination of exempt local governments.
>
> (a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of

owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.)

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau, and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination once every 5 years. The data shall be shown for each local government in the state and for the state as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) Communities which develop affordable housing plans and meet one of the three statutory goals (see page 13) are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.

Data Sources

The sections of AHPAA quoted above provide a framework for completing the exemption determination process; however, Section 20a raises an important issue for beginning the exemption determination process: establishing a single source of data as “the most recent data from the U.S. Census Bureau.”

Nearly all of the data points required for the determination process are now available in the American Community Survey (ACS) 5-Year Estimates and are published annually on a two-year delay. As of December 2018, the most recent ACS 5-year data set available was the 2016 5-year Estimate, which was selected as the primary data source for completing the most local exemption determination process.

Data provided by the U.S. Census Bureau was analyzed to assign a primary county or MSA to every local government in the state (numerous local governments have jurisdictions that cross county boundaries). Land coverage within the jurisdiction of all local governments was calculated by county and was assigned a majority county or MSA to determine the median household income.

Mortgage contract terms for the calculation of affordable owner-occupied units are not explicitly defined in the statute, so industry standards and academic literature were relied on. The fixed-rate, 30-year mortgage with a downpayment of 10% of the purchase price was chosen because research has shown that those are the optimal terms for both low-income homebuyers and mortgage lenders with regards to the probability of negative home equity and default rates.[1] An average interest rate for the past five years (2013 - 2017) was calculated using the Annual Conventional Mortgages published by the Federal Home Loan Mortgage Corporation (Freddie Mac).[2] This interest rate, 3.98%, was assumed for the calculation of affordable owner-occupied units. Reliable data for homeowner's insurance and homeowners association fees was not available on a community-level scale and, therefore, was not included in the determination process (Note: any such data used in the determination process would only have increased the number of Non-Exempt Local Governments.)

Selecting U.S. Census Bureau Data

The exemption determination process outlined in Section 20b of the statute does not explicitly identify all of the data points needed to complete the process as directed. This section connects key terms used in the statute with data points available within the 2016 ACS 5 Year Estimates.

- Local Government: Section 15 of AHPAA defines local government as a county or municipality and automatically exempts any municipality with a population under 1,000. The Census Bureau's definition of 'place' includes any incorporated local government, but does not include counties or townships. In the exemption determination process IHDA included all 'places' and 'counties' within Illinois. Places with population under 1,000 and Census Designated Places (which are not incorporated as municipalities) were removed from the analysis. Parties interested in

[1] John Y. Campbell and João F. Cocco. "A Model of Mortgage Default," National Bureau of Economic Research Working Paper 17516, October 2011. Patrie Hendershott, Robert Hendershott, and James Shilling. "The Mortgage Finance Bubble: Causes and Corrections," Journal of Housing Research, 2010. Tomasz Piskorski and Alexei Tchistyi. "Stochastic House Appreciation and Optimal Mortgage Lending," Review of Financial Studies, 2011.

[2] http://www.freddiemac.com/pmms/pmms30.html

the affordability of unincorporated areas may contact IHDA for more information. Concerning AHPAA data, county data only covers unincorporated areas.

- Area Median Income (AMI): In accordance with Section 20b(i) and 20b(ii) of the statute, the median household income (MHI) was collected from each county and Metropolitan Statistical Area (MSA) in the state (when appropriate the MHI for MSA Metropolitan Divisions was used) and assigned to all local governments within that geography. For further information see the FAQs section on page 18.

- Total Year-Round Housing Units: Seasonal and recreational housing units are classified as a type of vacant housing in American Community Survey (ACS) data. To avoid any concerns of inflating the true number of year-round housing units in a given community (and thereby deflating its share of affordable housing stock), only occupied housing units were included during the exemption determination process. Total year-round units were calculated by adding "owner-occupied units" and "occupied units paying rent".

- Owner-Occupied Housing Units: "Value" of home estimates were utilized to determine how many of the owner-occupied housing units in a given local government are 'affordable' to potential homebuyers at 80% of the AMI. Only units that are currently occupied by homeowners are included in these estimates.

- Total Median Real Estate Taxes Paid: Estimates from ACS data for every local government were also utilized to determine the number of affordable owner-occupied housing units. Vacant for-sale units are not included in the determination process because the U.S. Census Bureau does not collect information on their value (note: homeowner utility costs are not collected as part of the American Community Survey, nor does the AHPAA statute include it in its formula for affordable homeownership).

- Rental Units: "Gross Rent" estimates were utilized to determine how many of the occupied rental units in a given community would be affordable to a potential renter households at 60% of the AMI. Only units occupied by renters are included in these estimates. Units occupied by renters not paying rent are not counted as affordable rental units because the Census Bureau does not collect information on the terms of occupancy.

Determining Share of Affordable Units

Below, please find two examples demonstrating the steps IHDA undertakes when determining the share of affordable housing units per the AHPAA statute.

City of Evanston, Cook County
Population: 75,472
Area Median Income: $63,327 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$63,327 (AMI) x 60% x 30% (portion of income affordable for housing) / 12 = $949.91 a month

Now the number of affordable rental units in Evanston can be counted.

"Gross Rent" – Total Occupied Units Paying Rent: 12,637
"Gross Rent" – Less than $500: 376
"Gross Rent" – $500 to $999: 2,781
"Gross Rent" – $1,000 to $1,499: 5,241
"Gross Rent" – $1,500 to $1,999: 2,339
"Gross Rent" – $2,000 to $2,499: 1,179
"Gross Rent" – $2,500 to $2,999: 425
"Gross Rent" – $3,000 or more: 296

The affordable monthly rental amount in Evanston, $949.91, falls within the $500 to $999 "Gross Rent" interval. The total number of units in lower intervals is 376. Since $949.91 represents 89.98% of the $500 to $999 interval, an estimated 2,502.37 units of the 2,781 units within that interval have a "Gross Rent" below $9949.91. Adding the two figures reaches a total of **2,878.37 affordable rental units** in Evanston.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$63,327 (AMI) x 80% x 30% (portion of income affordable for housing) / 12 = $1,266.54 a month

The median real estate taxes paid in Evanston were $7,085, or $590.42 a month. This amount was subtracted from $1,266.54 to reach the final affordable monthly payment of $676.12. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 3.98% interest rate, a 30-year loan term and a 10% down payment, an affordable home value in Evanston was determined to be $156,161

Now the number of affordable owner-occupied units in Evanston can be counted.

"Value" - Total Owner-Occupied units: 15,976
"Value" - Less than $50,000: 281
"Value" - $50,000 to $99,999: 497
"Value" - $100,000 to $149,999: 1103
"Value" - $150,000 to $199,999: 1898
"Value" - $200,000 to $299,999: 2883
"Value" - $300,000 to $499,999: 4012
"Value" - $500,000 to $999,999: 4429
"Value" - $1,000,000 or more: 873

The affordable home value in Evanston, $156,161, falls within the $150,000 to $199,000 "Value" interval. The total number of units in lower intervals is 1,881. Since $156,161 represents 12% of the $150,000 to $199,000 interval, an estimated 233.8 units within the interval have a “value” below $156,161. Adding the two figures reaches a total of **2114.86** in Evanston.

The sum of affordable housing units in Evanston equaled **4,993**. At this point the affordable housing share of total units in Evanston was calculated.

4,993 (affordable housing units) / 28,613 (year-round housing units) = **17.5%**

<u>Village of Frankfort, Will County</u>
Population: 18,415
Area Median Income: $63,327 (Chicago MSA)

First, the affordable monthly rent was determined for a household at 60% of the AMI.

$63,327 (AMI) x 60% x 30% (portion of income affordable for housing) / 12 = $949.91 a month

Now the number of affordable rental units in Frankfort can be counted.

“Gross Rent” – Total Occupied Units Paying Rent: 265
“Gross Rent” – Less than $500: 0
“Gross Rent” – $500 to $999: 78
“Gross Rent” – $1,000 to $1,499: 32
“Gross Rent” – $1,500 to $1,999: 45
“Gross Rent” – $2,000 to $2,499: 51
“Gross Rent” – $2,500 to $2,999: 17
“Gross Rent” – $3,000 or more: 42

The affordable monthly rental amount in Frankfort, $949.91, falls within the $500 to $999 “Gross Rent” interval. The total number of units in lower intervals is 0. Since $949.91 represents 89.9% of the $500 to $999 interval, an estimated 70.19 units of the 78 units within that interval have a “Gross Rent” below $949.91. The result is a total of **70.19 affordable rental units** in Frankfort.

Next, the affordable home value was determined for a household at 80% of the AMI. The first was determining an affordable monthly payment for this hypothetical household.

$63,327 (AMI) x 80% x 30% (portion of income affordable for housing) / 12 = $1,266.54 a month

The median real estate taxes paid in Frankfort were $9,212, or $767.67 a month. This amount was subtracted from $1,266.54 to reach the final affordable monthly payment of $498.87. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 3.98% interest rate, a 30-year loan term and a 10% down payment, an affordable home value in Frankfort was determined to be $115,222

Now the number of affordable owner-occupied units in Frankfort can be counted.

“Value” - Total Owner-Occupied units: 5,732
“Value” - Less than $50,000: 38
“Value” - $50,000 to $99,999: 46
“Value” - $100,000 to $149,999: 79
“Value” - $150,000 to $199,999: 299
“Value” - $200,000 to $299,999: 1,458
“Value” - $300,000 to $499,999: 3,182
“Value” - $500,000 to $999,999: 604
“Value” - $1,000,000 or more: 26

The affordable home value in Frankfort, $115,222, falls within the $100,000 to $149,000 “Value” interval. The total number of units in lower intervals is 74. Since $115,222 represents 30% of the $100,000 to $149,000 interval, an estimated 24.05 units within the interval have a “value” below $115,222. Adding the two figures reaches a total of **108.05 affordable owner-occupied units** in Frankfort.

The sum of affordable housing units in Frankfort equaled **178**. At this point the affordable housing share of total units in Frankfort was calculated.

178 (affordable housing units) / 5,997 (year-round housing units) = **3.0%**

AHPAA Requirements Timeline

Once a municipality is determined to be and is notified that it is non-exempt from the AHPAA, it must develop, adopt and submit to IHDA an affordable housing plan within 18 months. IHDA will host an informational meeting for non-exempt municipalities shortly after announcing the list and is available on an ongoing basis to provided related technical assistance.

AHPAA Affordable Housing Plan Timeline	
Non-Exempt Community Notification	**12/28/2018**
Affordable Housing Plan Submission	On a rolling basis between **12/28/2018** and **6/28/2020** (*must be submitted within 60 days of local approval*)
Final Submission Deadline: AHPAA Housing Plan	**6/28/2020** (*18 months from NELG Status notification – see above*)

Affordable Housing Plans

From the date on the letter/email notifying a Non-Exempt Local Government of its status under AHPAA, the municipality or county has 18 months from the date the Non-Exempt Local Government list was published to develop, approve and submit an Affordable Housing Plan to IHDA, consisting of (at a minimum) the following components:

- Statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of the Act, as defined in Section 15 and Section 20, and based on the numbers included in AHPAA Local Government Exemption Report published by IHDA.

- Identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned.

- Incentives that the local government may provide for the purpose of attracting affordable housing to their jurisdiction.

- Selection of one of the following three goals for increasing local affordable housing stock:

    - Requiring a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act;

- Requiring a minimum of a 3% percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act; or
- Requiring a minimum of 10% of affordable housing within its jurisdiction.

According to the law, Non-Exempt Local Governments must submit their Affordable Housing Plan to IHDA within 60 days of the initial local approval of the plan or approval of revisions to a previously approved affordable housing plan which was submitted to IHDA under the AHPAA.

State Housing Appeals Board

AHPAA also assigns IHDA the responsibility of staffing the State Housing Appeals Board. The State Housing Appeals Board may hear appeals once the following conditions are met:

- A developer, believing there is a market for such housing, must obtain site control in a Non-Exempt Local Government and voluntarily come forward with a proposal that includes at least 20% of the dwelling units being subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.
- The developer's proposal must be denied, or approved with conditions that rendered the project infeasible by the local government's governing board.
- The developer must file an appeal with the State Housing Appeals Board within 45 days of the local government decision that he or she wishes to appeal. Initial pleadings filed by the developer must include the following:
    - A clear and concise statement of the prior proceedings (related to the proposed development) before all Approving Authorities, including the date of notice of the decision that the Affordable Housing Developer is appealing;
    - A clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;
    - A clear and concise statement setting forth the relief sought;
    - The complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;

- The name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and

- A complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

During the appeals process, the developer must convince the State Housing Appeals Board that:

- The proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements.[3] The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; or

- Non-Appealable Local Government Requirements have been applied differently to proposals that do not include Affordable Housing; or

- The Approving Authority has a pattern of denying applications to develop Affordable Housing; or

- The Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; or

- The Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; or

- IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or

- Any other unreasonable denial of the application for the Affordable Housing Development.

[3] "Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

The local government, or approving authority, has equal opportunity to present evidence and defend itself against claims made by the appealing developer.

Appendices

Appendix A: Frequently Asked Questions

Can a Non-Exempt Local Government appeal their exemption status?

The State Housing Appeals Board has the authority to review the legitimacy of exemption status but only in the case of a developer's appeal related to that community. If a Non-Exempt Local Government wishes to submit information that may affect their exemption status in the eyes of the State Housing Appeals Board, then they may submit those materials to IHDA for the State Housing Appeals Board as records to be reviewed at the time of an appeal.

Why are Metropolitan Statistical Area figures for median household income used for some places and county figures for other places?

The AHPAA statute specifies affordability calculations be based on the median household income of Metropolitan Statistical Area (MSA) data *where available* and county data where MSA data is *not available*. The U.S. Office of Management and Budget regularly publishes guidance on the definitions of MSAs and that information is adopted by the U.S. Census Bureau and various federal funding sources. AHPAA was written to accommodate the MSA data to ensure that areas of population concentration with a high degree of economic and social integration are treated as a whole. Counties using county data are generally rural in nature.

Does the count of affordable units in a local government reflect the number of households currently paying more than 30% of income?

No. The analysis compares the cost of buying or renting a home in a given community to the area's (MSA or county) median household income and is based on census household survey responses.

What is the State Housing Appeals Board?

The State Housing Appeals Board (SHAB) consists of seven members:

1) A zoning board of appeals member from a Non-Exempt community;
2) A planning board member from a Non-Exempt community;
3) A mayor or municipal council/board member from a Non-Exempt community;
4) A county board member;
5) An affordable housing developer;
6) A housing advocate; and
7) A retired circuit or appellate judge (who must serve as board chairperson).

IHDA's Chairman serves as an ex-officio member.

How does a developer file an appeal with the State Housing Appeals Board?

A developer wishing to file an appeal should send a complete package with all materials identified in the AHPAA to the Office of Housing Coordination Services in the Strategic Planning and Reporting Department at IHDA, addressed as follows:

ATTN: Strategic Planning and Reporting Department, IHDA (16)/(OHCS)
RE: State Housing Appeals Board
111 E. Wacker Drive, Ste. 1000
Chicago, IL 60611

Does affordable housing have a negative impact on property values?
In recent years, researchers have produced numerous studies with rigorous analytic methodologies to better understand the impact that affordable housing developments have on surrounding property values, local community safety and services. A review of the literature on the subject conducted in 2016 indicated that most studies do not find a negative impact related to affordable housing developments.[4] The literature review also showed that affordable housing sited in economically strong communities and dispersed across metropolitan regions are the most successful and have the least negative impacts. Another study focused on affordable housing developments in suburban New Jersey, which has a State policy similar to the Affordable Housing Planning and Appeal Act, found that affordable housing development was not associated with increased crime, decreased property values or increased taxes.[5]

Are municipalities required to own the affordable housing developed within their borders?
No. A non-exempt municipality is not expected to own or manage affordable housing in order to comply with the AHPAA statute. However, the planning requirements of the AHPAA suggest that municipalities can and are encouraged to help facilitate affordable housing development by providing local incentives, some of which may involve municipally created non-profit ownership or management of a property (e.g., a Community Land Trust under an inclusionary housing program or a Community Housing Development Organization under a HOME program). Financial public support of an affordable housing development may be more appropriate in the form of a property donation or waiver of local development building and permit fees. (In addition, non-profits and affiliates of Public Housing Authorities have also developed and managed affordable housing properties in Illinois.)

To comply with the AHPAA statute, is a particular type of affordable housing necessary?
No. The type of affordable housing provided within a community is strictly a local decision. Neither IHDA nor the AHPAA statute require or prefer a particular type of affordable housing to comply. Municipalities may decide to encourage affordable rental housing, affordable homeownership programs or alternative types of housing tenure. In some cases, changes to local zoning and building codes may attract developers able to build housing without any subsidies or restrictions and market them to residents at an affordable price (according to AHPAA).

Are municipalities required to change zoning ordinances to comply with the AHPAA?
No. The AHPAA statute does not intend to dictate or override local zoning ordinances and building codes. Compliance with the statute does not necessarily require a change in either zoning or building codes (nor density, design or unit type requirements). Some communities may utilize related incentive programs, such as the establishment of an inclusionary zoning

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[4] Young, Cheryl. "There *Doesn't* Go the Neighborhood: Low-Income Housing Has No Impact on Nearby Home Values" in Trulia Research/ Affordability web report - ***https://www.trulia.com/research/low-income-housing***
[5] Len Albright, Elizabeth S. Derickson and Douglas S. Massey. "Do Affordable Housing Projects Harm Suburban Communities? Crime, Property Values, and Property Taxes in Mt. Laurel, New Jersey" in *City & Community* (2013; 12: 2).

ordinance or other development incentives, and may choose to modify local zoning ordinances to accommodate for affordable housing developments.

Are municipalities required to be involved with private real estate transactions?
No. Compliance with the statute does not require municipal participation in private transactions. Unless a municipality chooses to become involved indirectly with private real estate transactions by establishing a Community Land Trust (though Community Land Trusts are generally recommended to be established as a separate legal entity), there are no statutory requirements that necessitate municipal participation in real estate transactions beyond the approval of an affordable housing plan. Municipalities and counties are encouraged to participate in such projects financially, when feasible, via local CDBG and/or HOME Program funding and other local options, e.g., TIF Districts, waiver of development fees, etc. Also approval and support of projects with affordable housing components such as LIHTC projects is encouraged.

To comply with the AHPAA statute are municipalities required to develop property designated as parkland or open space?
No. The purpose of the AHPAA is to strongly encourage local planning strategies that foster the development of affordable housing. The law is not intended to dictate type or location of affordable housing to be developed.

How are communities with little available land (“built out”) going to comply with the law?
The AHPAA does not force communities to categorically accept new developments that include affordable housing. In fact, this law may have minimal practical impact on communities that are already “built out”. Communities with little available land could choose the option of 15% of all new development and redevelopment as a set-aside for affordable housing. The law simply provides that as a community continues to grow or redevelop, it should work to include some moderately priced housing, making it possible for those who work in and serve the community to afford to live there too. Rehabilitation of existing housing and maintaining affordability is another option.

Will development of affordable housing in a municipality give it future “exempt” status?
This is a tricky question. First, the AHPAA law’s formula uses Census survey data to determine home values (and rent amounts), so it’s only as reliable as the local household responses regarding accuracy. Secondly, when updated, that same Census data also enumerates total changes in year-round housing stock, including all developments of non-affordable housing units.

Are municipalities with home rule authority exempt from AHPAA?
This matter was never directly addressed in the AHPAA statute and no home rule impact note was requested during the legislative process. In addition, no Illinois Attorney General’s opinion has been sought or rendered on the matter. As such, IHDA encourages all NELG communities to make good faith efforts to comply with the AHPAA minimum requirements.

Appendix B: Financial Assistance Available to Non-Exempt Local Governments

Municipalities seeking to encourage or proactively increase the number of local affordable housing units have a number of tools at their disposal. In addition, they should be made aware of several financial resources that can aid in the creation of affordable housing.

Listed below are local tools that communities may utilize to promote affordability:

- Zoning
- Reduction in Development Fees / Fee Waivers (building permit fees; planning fees; capital facilities fees; inspection fees; "tap-on" fees)
- Expedited Permitting for Affordable Housing
- Covenants
- Land Leases
- Community Land Trusts
- Deed Restrictions (on affordability)
- Use Restrictions
- Resale Restrictions
- Inclusionary Zoning (mandatory; voluntary; negotiated / ad hoc)
- Use of Public Funding (IHDA funds; federal funding; tax credits; assistance with local subsidies, such as CDBG or HOME)
- Planned Unit Development (PUD) ordinances

Discussed below are federal, state and local resources that may be accessed for assistance by non-profit developers, for-profit developers and local governments for affordable housing:

Community Development Block Grants (CDBG) – CDBG funds are federal grants available to municipalities and counties through the US Department of Housing and Urban Development (HUD) that can be used to fund many different programs that provide assistance to a wide variety of grantees. Certain housing activities constitute eligible uses, such as housing rehabilitation, land acquisition and homebuyer assistance. Funds must be used to primarily assist low- to moderate-income households as defined as 50% of AMI. For more information, see Appendix D:
https://www.hud.gov/program_offices/comm_planning/communitydevelopment/programs

HOME Participating Jurisdictions and Consortium Funding – Also funded through HUD, federal HOME funds are available via a formula grant to state and local government participating jurisdictions (PJs). HOME funds can be used for rental housing production and rehabilitation loans and grants, first-time homebuyer assistance and rehabilitation assistance for homeowners. An annual portion of HOME funds (15%) is required to be set-aside for eligible Community Housing Development Organizations (CHDOs). All housing developed with HOME funds must serve income eligible households (80% AMI homeowners and 60% renter AMI limits for determining income eligibility.)

IHDA is the designated State agency to oversee HOME funds within the State of Illinois. IHDA can allocate HOME funds throughout the state, but generally gives preference to areas that do not have their own local HOME funds as a Participating Jurisdiction or Consortium. Information on IHDA's HOME funds can be found at www.ihda.org.

Please Note: HUD provides CDBG and HOME grant funds on a state, municipal or county basis. See Appendix D for a list of the local and county administrators within the Chicago Metropolitan area.

Bond Financing – Tax-exempt, private activity bonds are a financing tool that can be applied to both single-family and multi-family housing programs. Tax-exempt bonds can be issued locally or by IHDA and may be utilized in combination with qualifying Low-Income Housing Tax Credit projects, as well as with HUDs Risk Sharing Insurance program (which is administered by IHDA).

IHDA is a designated public agency that is authorized to issue bonds to finance affordable housing within the State of Illinois for home mortgages. Such financing is generally limited by IRS Tax Code to first-time homebuyers (except targeted areas).

For more information on homebuyer programs at IHDA, please see www.ihda.org.

Tax Increment Financing (TIF) Districts – TIF districts can be established by municipalities for areas designated as conservation or blighted areas. Under the State's TIF law, when a municipality creates a TIF district, the amount of tax revenue the area currently generates is set as a baseline, which will serve as the amount that the local governmental taxing bodies will receive from that area for the life of the TIF, which is 23 years. As vacant and dilapidated properties are revitalized through development with TIF assistance, the value and tax revenue from those properties increases. The "increment" above the baseline is then captured and used solely for improvements and redevelopment activities in that TIF district.

There are currently many TIF districts within the State of Illinois. The TIFs that were established in the Chicago-metro area by municipalities (Chicago excluded) and designated as primarily for housing are:

Housing TIFs in the Chicago-Metro Area Permitting Housing Activities

City	County	District
MELROSE PARK	COOK	TIF 2
PALOS HEIGHTS	COOK	GATEWAY TIF
SUMMIT	COOK	TIF 1
STEGER	WILL	TIF II
STEGER	WILL	SOUTH CHICAGO ROAD TIF (TIF 4)
BOLINGBROOK	WILL/DuPAGE	BEACONRIDGE SUBDIVISION

Illinois Housing Development Authority (IHDA) – IHDA is the State's designated housing finance agency. Through IHDA financing, both communities and developers can access many sources of funding and tax credits from both State and Federal sources. IHDA's website (www.ihda.org) is an excellent source of information, describing the purpose and application process for all the authority's funding sources.

- The Authority offers a large array of funding that can help communities in their quest to develop more affordable housing. Some of which are: Low-Income Housing Tax Credits (LIHTC) – The federal LIHTC program is a competitive program for non-profit and for-profit entities to assist in developing affordable rental housing, offering a highly competitive 9% tax credit and a competitive 4% tax credit for 10 years to approved projects. Sale or syndication of these credits usually generates large amounts of equity that is put back into the development to keep rents affordable. Please note the current (2018- 2019) annual LIHTC Qualified Allocation Plan included point scoring incentives for targeted distribution of the subsidy. Two points are awarded to projects located in AHPAA Non-Exempt Local Governments (under 10% affordable housing share). Low-income under LIHTC is defined as 60% or less of household AMI.

- Illinois Affordable Housing Tax Credits (IAHTC) (aka: State Donations Tax Credit) – Works with donations to a project and is granted on a one-time basis to a project that receives eligible donations. This is an excellent source of gap financing for rental, homeowner and employer assisted housing projects being developed or operated by a non-profit organization. Eligible units are between 50% -120% AMI levels, depending on the type of project/program.

- Illinois Affordable Housing Trust Fund – Funded through a real estate transfer fee, t this State funding source assists in the provision of affordable, decent, safe and sanitary housing for low- and very low–income households for rental, homeownership and homebuyer units. Eligible proposals include: acquisition and rehabilitation of existing housing, new construction, adaptive reuse of non-residential buildings, and housing for special needs populations. The Trust Fund generally makes loans available at below market rates. Eligible households are between 50%-80% AMI.

- HOME – As discussed above, State HOME funds are administered by IHDA.

- National Housing Trust Fund – This is a state-administered HUD-funded program, operated and targeted by IHDA to extremely low-income (30% AMI or below) renter households.

- Multi Family Financing – IHDA offers a variety of other financing options specific to multi-family housing developments. The options currently available through IHDA include: Conduit Loan program, FFB Risk Share Program, Credit Advantage Mortgage Program, Affordable Advantage Mortgage Program, One Stop Pus Program and others.

- Single-Family Financing - IHDA finances mortgages through participating banks that are below the market rate, making it easier for low- and moderate-income families to qualify and afford a home (see Bond Financing). IHDA can also provide financial assistance to help with down payments and closing costs. Partnering with local non-profit organizations and municipalities, IHDA can also finance local homebuyer assistance programs as well as home repair programs with forgivable loans for low-income homeowners who need to bring their homes up to code.

Employer Assisted Housing (EAH) – There are also programs (both national and statewide) that encourages employers to invest in housing for their employees. An EAH program typically includes counseling about home buying and financing, direct financial assistance with closing costs and payments, rental housing assistance and/or a real estate investment.

Class 9 Property Tax Incentive – Encourages new development, rehabilitation and long-term preservation of multi-family rental housing, affordable to low- and moderate-income households across Cook County by providing significant tax abatement to qualified properties. Call 312/603-7850 or visit www.cookcountyassessor.com/forms-incentives.aspx

Federal Home Loan Bank (FHLB) – The Affordable Housing Program (AHP) offered by the Federal Home Loan Bank (Chicago FHLB) is a subsidy fund designed to assist in the development of affordable housing for low and moderate-income households. The Chicago FHLB contributes 10% of its previous year's net income to the AHP each year. The allocation is split between the Chicago FHLB's competitive application program and the non-competitive homeownership set-aside program called Down Payment Plus. The AHP provides grants and subsidized loans to member financial institutions working with affordable housing providers to finance rental and ownership housing for low and moderate-income households. For more information, please visit www.fhlbc.com or call 312/565-5700.

Community Investment Corporation (CIC) – CIC is a not-for-profit neighborhood revitalization lender that provides financing to buy and rehab multifamily apartment buildings with five units or more in the six-county metropolitan Chicago area**.** Please visit www.cicchicago.com or call 312/258-0070.

IFF – A leading nonprofit community development financial institutions (CDFI), IFF strengthens non-profits and their communities through lending and real estate consulting. IFF is able to help nonprofits finance, plan and build facilities that are critical to their mission and success. IFF serves nonprofits in Illinois and other Midwestern states, with a focus on those that serve low and moderate income communities and special needs populations. For more information, please visit www.iff.org, or call 312/629-0060.

Office of Housing Coordination Services (OHCS) – Part of IHDA's SPAR Department, OHCS operates a housing information clearinghouse for affordable housing in the State of Illinois. With this clearinghouse, OHCS tracks housing finance options provided by IHDA and other State programs, federal programs as well as private resources. For more information, please visit www.ihda.org, or contact the Office of Housing Coordination Services at (312) 836-5364.

Additional information on other IHDA programs, including those in foreclosure prevention, blight reduction, community revitalization and homeownership assistance can also be found in the Annual Comprehensive Housing Plan, which is listed on the IHDA website.

Appendix C: Technical Assistance Available to Non-Exempt Local Governments

A number of organizations have resources to assist local governments interested in developing affordable housing programs, incentives and/or plans for their community.

Chicago Metropolitan Agency for Planning (CMAP) – CMAP is the federally mandated Metropolitan Planning Organization (MPO) for the Northeast Illinois region, including Cook, DuPage, Kane, Kendall, Lake, McHenry and Will Counties. CMAP is charged with implementing the region's long-range, comprehensive plan called GO TO 2040. One of the plan's major recommendations is to achieve greater livability through land use and housing. To implement the plan, CMAP provides staff assistance to communities through the agency's Local Technical Assistance program, which seeks project proposals from communities late in the spring each year. CMAP has worked with MMC and MPC to provide housing policy plans across the region through the Homes for a Changing Region project. Currently, the community selection process is underway, with a total of 10 communities eligible to receive planning assistance to promote affordability and address challenges to creating balanced housing options. For more information, visit: www.cmap.illinois.gov.

Metropolitan Mayors Caucus (MMC) – The Caucus provides a forum through which the chief elected officials of the region cooperatively develop consensus on common public policy issues and multi-jurisdictional challenges. With a foundation of collaboration and consensus-based decision-making, it serves a number of functions for its partner organizations and local governments. With its partners, the Caucus has developed a number of housing related resources for its membership including: Homes for a Changing Region, a housing policy planning exercise that helps municipalities address barriers to affordability and plan for a balanced housing market. For more information please visit www.mayorscaucus.org or call 312/201-4507.

Metropolitan Planning Council (MPC) – For nearly eight decades, MPC has developed and implemented innovative, pragmatic solutions to planning and development challenges in Chicagoland. Through research, advocacy and demonstration projects, MPC is a trusted partner to governments, businesses and communities as each confronts the region's pressing needs so that everyone who lives and works here can thrive. Since its foundation in 1934, MPC has been committed to integrating quality homes affordable to families at a range of incomes,including very low-income households,into healthy communities with transportation options, job opportunities and quality schools. As mentioned above, MPC is also a partner in the Homes for A Changing Region Program. For more information please visit http://www.metroplanning.org/ or call 312/922-5616.

Business and Professional People for the Public Interest (BPI) – BPI is a public interest law and policy center that works throughout the Chicago region. BPI's housing program works to preserve and expand the supply of housing affordable to working people, seniors and young families, especially in areas of opportunity, and seeks to stabilize and strengthen neighborhoods that already have large supplies of affordable housing. BPI frequently works in collaboration with local governments and other local partners. BPI has helped local leaders to assess local housing needs and trends, conducted research on best practices from around the country, and helped to develop and improve local policies and programs. For example, BPI has assisted local governments in developing policies and programs that facilitate the creation of affordable housing, including incentives that allow developers to cover the cost of high-quality affordable housing at no cost to the local government. BPI has also worked with local governments to develop programs that preserve existing affordable units. For more information, please visit http://www.bpichicago.org/ or call 312/641-5570.

Appendix D: CDBG and HOME Administrators Directory

Communities that do not receive direct allocations of CDBG or HOME funds from HUD may be located in a county that does receive such funds. The county level administrators are capable of partnering with communities seeking resources for affordable housing initiatives or residential developments. Below is a list of Chicago Metropolitan Area cities and county administrators of CDBG and HOME funds in the Chicago metropolitan area.

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City of Naperville
City Manager's Office
400 S. Eagle Street
Naperville, IL 60540
630 / 420-6044

Cook County
Department of Planning and Development
69 W. Washington, Suite 2900
Chicago, IL 60602
312 / 603-1000

DuPage County
Department of Client Services
421 North County Farm Road
Wheaton, IL 60187
630 / 407-6500

Kane County
Office of Community Reinvestment
719 Batavia Avenue
Geneva, IL 60134
630 / 208-5351

Lake County
Department of Community Development
500 W. Winchester Rd., Unit 101
Libertyville, IL 60048
847 / 377-2475

McHenry County
Department of Planning and Development, Division of Community Development
2200 N. Seminary Avenue
Woodstock, IL 60098
815 / 334-4560

Will County
Land Use Department, Community Development Division
58 E. Clinton St
Joliet, IL 60433
815 / 774-7890

Appendix E: 310 ILCS 67 (AHPAA Statute As Amended)

(310 ILCS 67/1)
Sec. 1. Short title. This Act may be cited as the Affordable Housing Planning and Appeal Act.
(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/5)
Sec. 5. Findings. The legislature finds and declares that:
(1) there exists a shortage of affordable, accessible, safe, and sanitary housing in the State;
(2) it is imperative that action be taken to assure the availability of workforce and retirement housing; and
(3) local governments in the State that do not have sufficient affordable housing are encouraged to assist in providing affordable housing opportunities to assure the health, safety, and welfare of all citizens of the State.
(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/10)
Sec. 10. Purpose. The purpose of this Act is to encourage counties and municipalities to incorporate affordable housing within their housing stock sufficient to meet the needs of their county or community. Further, affordable housing developers who believe that they have been unfairly treated due to the fact that the development contains affordable housing may seek relief from local ordinances and regulations that may inhibit the construction of affordable housing needed to serve low-income and moderate-income households in this State.
(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/15)
Sec. 15. Definitions. As used in this Act:
"Affordable housing" means housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.
"Affordable housing developer" means a nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an affordable housing development.
"Affordable housing development" means (i) any housing that is subsidized by the federal or State government or (ii) any housing in which at least 20% of the dwelling units are subject to covenants or restrictions that require that the dwelling units be sold or rented at

prices that preserve them as affordable housing for a period of at least 15 years, in the case of owner-occupied housing, and at least 30 years, in the case of rental housing.

"Approving authority" means the governing body of the county or municipality.

"Area median household income" means the median household income adjusted for family size for applicable income limit areas as determined annually by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937.

"Community land trust" means a private, not-for-profit corporation organized exclusively for charitable, cultural, and other purposes and created to acquire and own land for the benefit of the local government, including the creation and preservation of affordable housing.

"Development" means any building, construction, renovation, or excavation or any material change in any structure or land, or change in the use of such structure or land, that results in a net increase in the number of dwelling units in a structure or on a parcel of land by more than one dwelling unit.

"Exempt local government" means any local government in which at least 10% of its total year-round housing units are affordable, as determined by the Illinois Housing Development Authority pursuant to Section 20 of this Act; or any municipality under 1,000 population.

"Household" means the person or persons occupying a dwelling unit.

"Housing trust fund" means a separate fund, either within a local government or between local governments pursuant to intergovernmental agreement, established solely for the purposes authorized in subsection (d) of Section 25, including, without limitation, the holding and disbursing of financial resources to address the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

"Local government" means a county or municipality.

"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% of the area median household income.

"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% but does not exceed 80% of the area median household income.

"Non-appealable local government requirements" means all essential requirements that protect the public health and safety, including any local building, electrical, fire, or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/20)

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the State and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources.

(b) The Illinois Housing Development Authority shall make this determination by:

(i) totaling the number of owner-occupied housing

units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area;

(ii) totaling the number of rental units in each

local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area;

(iii) adding the number of owner-occupied and rental

units for each local government from items (i) and (ii); and

(iv) dividing the sum of (iii) above by the total

number of year-round housing units in the local government as contained in the latest U.S. Census Bureau and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Illinois Housing Development Authority shall publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination at least once every 5 years. The data shall be shown for each local government in the State and for the State as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) A local government or developer of affordable housing may appeal the determination of the Illinois Housing Development Authority as to whether the local government is exempt or non-exempt under this Act in connection with an appeal under Section 30 of this Act.
(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/25)

Sec. 25. Affordable housing plan.

(a) Prior to April 1, 2005, all non-exempt local governments must approve an affordable housing plan. Any local government that is determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after 2010 shall have 18 months from the date of notification of its non-exempt status to approve an affordable housing plan under this Act.

(b) For the purposes of this Act, the affordable housing plan shall consist of at least the following:

(i) a statement of the total number of affordable

housing units that are necessary to exempt the local government from the operation of this Act as defined in Section 15 and Section 20;

(ii) an identification of lands within the

jurisdiction that are most appropriate for the construction of affordable housing and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned;

(iii) incentives that local governments may provide

for the purpose of attracting affordable housing to their jurisdiction; and

(iv) a goal of a minimum of 15% of all new

development or redevelopment within the local government that would be defined as affordable housing in this Act; or a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as described in subsection (b) of Section 20 of this Act; or a minimum of a total of 10% affordable housing within its jurisdiction as described in subsection (b) of Section 20 of this Act. These goals may be met, in whole or in part, through the creation of affordable housing units under intergovernmental agreements as described in subsection (e) of this Section.

(c) Within 60 days after the adoption of an affordable housing plan or revisions to its affordable housing plan, the local government must submit a copy of that plan to the Illinois Housing Development Authority.

(d) In order to promote the goals of this Act and to maximize the creation, establishment, or preservation of affordable housing throughout the State of Illinois, a local government, whether exempt or non-exempt under this Act, may adopt the following measures to address the need for affordable housing:

(1) Local governments may individually or jointly

create or participate in a housing trust fund or otherwise provide funding or support for the purpose of supporting affordable housing, including, without limitation, to support the following affordable housing activities:

(A) Housing production, including, without

limitation, new construction, rehabilitation, and adaptive re-use.

(B) Acquisition, including, without limitation,

land, single-family homes, multi-unit buildings, and other existing structures that may be used in whole or in part for residential use.

(C) Rental payment assistance.

(D) Home-ownership purchase assistance.

(E) Preservation of existing affordable housing.

(F) Weatherization.

(G) Emergency repairs.

(H) Housing related support services, including

homeownership education and financial counseling.

(I) Grants or loans to not-for-profit

organizations engaged in addressing the affordable housing needs of low-income and moderate-income households.

Local governments may authorize housing trust funds to accept and utilize funds, property, and other resources from all proper and lawful public and private sources so long as those funds are used solely for addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing.

(2) A local government may create a community land

trust, which may: acquire developed or undeveloped interests in real property and hold them for affordable housing purposes; convey such interests under long-term leases, including ground leases; convey such interests for affordable housing purposes; and retain an option to reacquire any such real property interests at a price determined by a formula ensuring that such interests may be utilized for affordable housing purposes.

(3) A local government may use its zoning powers to

require the creation and preservation of affordable housing as authorized under Section 5-12001 of the Counties Code and Section 11-13-1 of the Illinois Municipal Code.

(4) A local government may accept donations of money

or land for the purpose of addressing the affordable housing needs of individuals or households that may occupy low-income or moderate-income housing. These donations may include, without limitation, donations of money or land from persons in lieu of building affordable housing.

(e) In order to encourage regional cooperation and the maximum creation of affordable housing in areas lacking such housing in the State of Illinois, any non-exempt local government may enter into intergovernmental agreements under subsection (e) of Section 25 with local governments within 10 miles of its corporate boundaries in order to create affordable housing units to meet the goals of this Act. A non-exempt local government may not enter into an intergovernmental agreement, however, with any local government that contains more than 25% affordable housing as determined under Section 20 of this Act. All intergovernmental agreements entered into to create affordable housing units to meet the goals of this Act must also specify the basis for determining how many of the affordable housing units created will be credited to each local government participating in the agreement for purposes of complying with this Act. In specifying how many affordable housing units will be credited to each local government, the same affordable housing unit may not be counted by more than one local government.
(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/30)
Sec. 30. Appeal to State Housing Appeals Board.
(a) (Blank).
(b) Beginning January 1, 2009, an affordable housing developer whose application is either denied or approved with conditions that in his or her judgment render the provision of affordable housing infeasible may, within 45 days after the decision, appeal to the State Housing Appeals Board challenging that decision unless the municipality or county that rendered the decision is exempt under Section 15 of this Act. The developer must submit information regarding why the developer believes he or she was unfairly denied or unreasonable conditions were placed upon the tentative approval of the development. In the

case of local governments that are determined by the Illinois Housing Development Authority under Section 20 to be non-exempt for the first time based on the recalculation of U.S. Census Bureau data after the effective date of this amendatory Act of the 98th General Assembly, no developer may appeal to the State Housing Appeals Board until 60 months after a local government has been notified of its non-exempt status.

(c) Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Board shall, whenever possible, render a decision on the appeal within 120 days after the appeal is filed. The Board may extend the time by which it will render a decision where circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. In any proceeding before the Board, the affordable housing developer bears the burden of demonstrating that the proposed affordable housing development (i) has been unfairly denied or (ii) has had unreasonable conditions placed upon it by the decision of the local government.

(d) The Board shall dismiss any appeal if:

(i) the local government has adopted an affordable housing plan as defined in Section 25 of this Act and submitted that plan to the Illinois Housing Development Authority within the time frame required by this Act; and

(ii) the local government has implemented its affordable housing plan and has met its goal as established in its affordable housing plan as defined in Section 25 of this Act.

(e) The Board shall dismiss any appeal if the reason for denying the application or placing conditions upon the approval is a non-appealable local government requirement under Section 15 of this Act.

(f) The Board may affirm, reverse, or modify the conditions of, or add conditions to, a decision made by the approving authority. The decision of the Board constitutes an order directed to the approving authority and is binding on the local government.

(g) The appellate court has the exclusive jurisdiction to review decisions of the Board. Any appeal to the Appellate Court of a final ruling by the State Housing Appeals Board may be heard only in the Appellate Court for the District in which the local government involved in the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing such appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Code of Civil Procedure.

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/40)

Sec. 40. Nonresidential development as part of an affordable housing development.

(a) An affordable housing developer who applies to develop property that contains nonresidential uses in a nonresidential zoning district must designate either at least 50% of the area or at least 50% of the square footage of the development for residential use. Unless adjacent to a residential development, the nonresidential zoning district shall not include property zoned industrial. The applicant bears the burden of proof of demonstrating that the purposes of a nonresidential zoning district will not be impaired by the construction of housing in the zoning district and that the public health and safety of the residents of the affordable housing will not be adversely affected by nonresidential uses either in existence or permitted in that zoning district. The development should be completed simultaneously to the extent possible and shall be unified in design.

(b) For purposes of subsection (a), the square footage of the residential portion of the development shall be measured by the interior floor area of dwelling units, excluding that portion that is unheated. Square footage of the nonresidential portion shall be calculated according to the gross leasable area.

(Source: P.A. 93-595, eff. 1-1-04.)

(310 ILCS 67/50)

Sec. 50. Housing Appeals Board.

(a) Prior to January 1, 2008, a Housing Appeals Board shall be created consisting of 7 members appointed by the Governor as follows:

(1) a retired circuit judge or retired appellate judge, who shall act as chairperson;

(2) a zoning board of appeals member;

(3) a planning board member;

(4) a mayor or municipal council or board member;

(5) a county board member;

(6) an affordable housing developer; and

(7) an affordable housing advocate.

In addition, the Chairman of the Illinois Housing Development Authority, ex officio, shall serve as a non-voting member. No more than 4 of the appointed members may be from the same political party. Appointments under items (2), (3), and (4) shall be from local governments that are not exempt under this Act.

(b) Initial terms of 4 members designated by the Governor shall be for 2 years. Initial terms of 3 members designated by the Governor shall be for one year. Thereafter, members shall be appointed for terms of 2 years. After a member's term expires, the member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve. A member shall receive no compensation for his or her services, but shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of his or her official duties. The board shall hear all petitions for review filed under this Act and shall conduct all hearings in accordance with the rules and regulations established by the chairperson. The Illinois Housing Development Authority shall provide space and clerical and other assistance that the Board may require.

(c) (Blank).

(Source: P.A. 98-287, eff. 8-9-13.)

(310 ILCS 67/60)

Sec. 60. Rulemaking authority. The Illinois Housing Development Authority shall adopt other rules and regulations as needed to carry out the Board's responsibilities under this Act and to provide direction to local governments and affordable housing developers.

(Source: P.A. 94-303, eff. 7-21-05.)

Appendix F: 2018 List of AHPAA Non-Exempt Local Governments (Ordinal)

2018 Report of Non Exempt Local Governments
Ordinal (determination based on 2016 American Community Survey 5-year Estimates)

#	Place	County	Population	Year Round Units	Total Affordable Units	Affordable Housing Share
1	Campton Hills	KANE	11,500	3,504	27	0.8%
2	South Barrington	COOK	4,766	1,483	12	0.8%
3	Long Grove	LAKE	8,065	2,366	27	1.1%
4	Barrington Hills	COOK	3,574	1,384	18	1.3%
5	Inverness	COOK	7,844	2,714	36	1.3%
6	Western Springs	COOK	13,133	4,346	64	1.5%
7	Deer Park	LAKE	3,409	1,121	22	1.9%
8	Kenilworth	COOK	2,613	792	18	2.2%
9	Glencoe	COOK	8,870	3,081	78	2.5%
10	Oak Brook	DUPAGE	7,988	2,986	77	2.6%
11	Timberlane	BOONE	1,023	311	8	2.7%
12	Winnetka	COOK	12,437	4,014	110	2.7%
13	Frankfort	WILL	18,415	5,997	178	3.0%
14	North Barrington	LAKE	2,972	1,046	31	3.0%
15	Northfield	COOK	5,374	2,126	67	3.2%
16	Lakewood	MCHENRY	4,111	1,320	42	3.2%
17	Burr Ridge	DUPAGE	10,736	4,338	144	3.3%
18	Hinsdale	DUPAGE	17,438	5,533	184	3.3%
19	Hawthorn Woods	LAKE	7,590	2,394	81	3.4%
20	Green Oaks	LAKE	3,832	1,140	40	3.5%
21	Prairie Grove	MCHENRY	1,704	598	22	3.8%
22	Lake Bluff	LAKE	5,758	1,992	76	3.8%
23	Lincolnshire	LAKE	7,291	2,941	130	4.4%
24	Wilmette	COOK	27,367	9,551	431	4.5%
25	Bull Valley	MCHENRY	1,213	429	20	4.6%
26	Wayne	DUPAGE	2,513	929	44	4.8%
27	Lake Forest	LAKE	18,881	6,557	348	5.3%
28	Lincolnwood	COOK	12,637	4,118	227	5.5%
29	Lily Lake	KANE	1,253	385	21	5.6%
30	Riverwoods	LAKE	3,759	1,248	71	5.7%
31	Northbrook	COOK	33,538	12,647	722	5.7%
32	Homer Glen	WILL	24,385	8,337	492	5.9%
33	Kildeer	LAKE	3,976	1,308	84	6.4%
34	Plainfield	WILL	41,881	12,332	793	6.4%
35	Gilberts	KANE	7,479	2,187	156	7.1%
36	Glenview	COOK	46,559	16,782	1,223	7.3%
37	Deerfield	LAKE	18,686	6,648	486	7.3%
38	Naperville	DUPAGE	145,789	50,410	3,778	7.5%
39	Tower Lakes	LAKE	1,149	387	30	7.7%
40	Geneva	KANE	21,732	7,798	600	7.7%
41	Sleepy Hollow	KANE	3,338	1,192	92	7.7%
42	Park Ridge	COOK	37,567	13,834	1,112	8.0%
43	Elmhurst	DUPAGE	45,742	15,535	1,278	8.2%
44	La Grange	COOK	15,688	5,277	448	8.5%
45	River Forest	COOK	11,217	3,788	340	9.0%
46	Highland Park	LAKE	29,780	11,361	1,056	9.3%

2018 List of AHPAA Non-Exempt Local Governments (Nominal)

2018 Report of Non Exempt Local Governments
Nominal (determination based on 2016 American Community Survey 5-year Estimates)

#	Place	County	Population	Year Round Units	Total Affordable Units	Affordable Housing Share
1	Barrington Hills	COOK	3,574	1,384	18	1.3%
2	Bull Valley	MCHENRY	1,213	429	20	4.6%
3	Burr Ridge	DUPAGE	10,736	4,338	144	3.3%
4	Campton Hills	KANE	11,500	3,504	27	0.8%
5	Deer Park	LAKE	3,409	1,121	22	1.9%
6	Deerfield	LAKE	18,686	6,648	486	7.3%
7	Elmhurst	DUPAGE	45,742	15,535	1,278	8.2%
8	Frankfort	WILL	18,415	5,997	178	3.0%
9	Geneva	KANE	21,732	7,798	600	7.7%
10	Gilberts	KANE	7,479	2,187	156	7.1%
11	Glencoe	COOK	8,870	3,081	78	2.5%
12	Glenview	COOK	46,559	16,782	1,223	7.3%
13	Green Oaks	LAKE	3,832	1,140	40	3.5%
14	Hawthorn Woods	LAKE	7,590	2,394	81	3.4%
15	Highland Park	LAKE	29,780	11,361	1,056	9.3%
16	Hinsdale	DUPAGE	17,438	5,533	184	3.3%
17	Homer Glen	WILL	24,385	8,337	492	5.9%
18	Inverness	COOK	7,844	2,714	36	1.3%
19	Kenilworth	COOK	2,613	792	18	2.2%
20	Kildeer	LAKE	3,976	1,308	84	6.4%
21	La Grange	COOK	15,688	5,277	448	8.5%
22	Lake Bluff	LAKE	5,758	1,992	76	3.8%
23	Lake Forest	LAKE	18,881	6,557	348	5.3%
24	Lakewood	MCHENRY	4,111	1,320	42	3.2%
25	Lily Lake	KANE	1,253	385	21	5.6%
26	Lincolnshire	LAKE	7,291	2,941	130	4.4%
27	Lincolnwood	COOK	12,637	4,118	227	5.5%
28	Long Grove	LAKE	8,065	2,366	27	1.1%
29	Naperville	DUPAGE	145,789	50,410	3,778	7.5%
30	North Barrington	LAKE	2,972	1,046	31	3.0%
31	Northbrook	COOK	33,538	12,647	722	5.7%
32	Northfield	COOK	5,374	2,126	67	3.2%
33	Oak Brook	DUPAGE	7,988	2,986	77	2.6%
34	Park Ridge	COOK	37,567	13,834	1,112	8.0%
35	Plainfield	WILL	41,881	12,332	793	6.4%
36	Prairie Grove	MCHENRY	1,704	598	22	3.8%
37	River Forest	COOK	11,217	3,788	340	9.0%
38	Riverwoods	LAKE	3,759	1,248	71	5.7%
39	Sleepy Hollow	KANE	3,338	1,192	92	7.7%
40	South Barrington	COOK	4,766	1,483	12	0.8%
41	Timberlane	BOONE	1,023	311	8	2.7%
42	Tower Lakes	LAKE	1,149	387	30	7.7%
43	Wayne	DUPAGE	2,513	929	44	4.8%
44	Western Springs	COOK	13,133	4,346	64	1.5%
45	Wilmette	COOK	27,367	9,551	431	4.5%
46	Winnetka	COOK	12,437	4,014	110	2.7%