

SENATE BILL 2496

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 13  
and Title 66, relative to attainable housing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 3, is amended by adding the following as a new part:

**13-3-601.**

The chief legislative body of a municipality may create a voluntary attainable housing incentive program by ordinance, for the purpose of authorizing certain incentives to be provided to property owners who seek to build attainable housing.

**13-3-602.**

An ordinance creating a voluntary attainable housing incentive program enacted by the chief legislative body of a municipality must contain, at a minimum, the following:

- (1) A definition of attainable housing for the purposes of the program;
- (2) The types of facilities, buildings, and structures eligible for the program;
- (3) The geographic areas of the municipality where facilities, buildings, and structures eligible for the program may be constructed or rented;
- (4) Any special exceptions or conditional uses included in the zoning ordinances of the municipality that apply to attainable housing projects;
- (5) Any other municipal incentives available to property owners who are approved for participation in the program; and

(6) The process that a property owner must follow to provide notice of interest for the voluntary program, including the convening of a pre-application conference, and the process for submitting a completed application as set forth in § 13-3-603.

**13-3-603.**

(a) The voluntary attainable housing incentive program must require a property owner to provide written notice of interest for consideration under the program. A municipality shall not compel any property owner to participate in the program.

(b) A potential applicant must provide notice of interest for consideration under a voluntary attainable housing incentive program to the regional planning commission staff. Upon receipt of a potential applicant's written notice of interest by the regional planning commission staff, a pre-application conference must be held between the regional planning commission staff and the potential applicant before a complete application for housing incentives is filed. The purpose of the pre-application conference is to determine whether a potential project satisfies all of the requirements set out in the ordinance created under § 13-3-602.

(c)

(1) Upon the conclusion of the pre-application conference, the regional planning commission staff shall either:

(A) Determine that the proposed project satisfies the requirements to receive housing incentives as set out in the ordinance established under § 13-3-602, and thereafter prepare a conference summary document that includes at a minimum:

(i) The parameters of the project, including the timeframe for completing the project;

- (ii) The incentives being offered;
- (iii) A finding that the potential project conforms to the ordinance and state law; and
- (iv) A recommendation to the regional planning commission; or

(B) Determine that the proposed project does not conform to the ordinance established under § 13-3-602 and state law or that the property owner is no longer interested in participation in the voluntary program.

When the proposed project is determined to not meet the requirements of the ordinance established under § 13-3-602, the property owner may either request another meeting within sixty (60) days of the pre-application conference or move forward with the proposed project without the requested incentives.

(2) Any finding referenced in subdivision (c)(1)(A) by regional planning commission staff is not binding and does not create any vested property rights for the property owner.

(d) Upon receipt of the pre-application conference summary document, the potential applicant may submit a complete application to the regional planning commission for participation in the voluntary attainable housing incentive program. Such application must include a copy of the pre-application conference summary document and an attestation that the applicant is willingly participating in a voluntary program and will construct and complete the project timely within the manner outlined and reviewed in the pre-application conference. The applicant must submit a completed application to the regional planning commission within one hundred twenty (120) days of receiving the

pre-application conference summary document for the completed application to be considered.

(e) The regional planning commission shall make the final decision on whether to approve the completed application at the next public meeting held after the completed application is submitted. The regional planning commission shall review the completed application to determine if it is within the parameters of the pre-application conference summary document. If the completed application is determined to be within the parameters of the pre-application conference summary document, the completed application must not be denied based on any provisions set out in the document. The commission may deny the application based upon any legal issue subsequently identified during the review of the completed application.

(f) All facilities, buildings, and structures constructed under a voluntary attainable housing incentive program must be deed-restricted to ensure that the attainable housing continues in perpetuity.

SECTION 2. Tennessee Code Annotated, Title 13, Chapter 4, is amended by adding the following as a new part:

**13-4-401.**

The chief legislative body of a municipality may create a voluntary attainable housing incentive program by ordinance, for the purpose of authorizing certain incentives to be provided to property owners who seek to build attainable housing.

**13-4-402.**

An ordinance creating a voluntary attainable housing incentive program enacted by the chief legislative body of a municipality must contain, at a minimum, the following:

- (1) A definition of attainable housing for the purposes of the program;

- (2) The types of facilities, buildings, and structures eligible for the program;
- (3) The geographic areas of the municipality where facilities, buildings, and structures eligible for the program may be constructed or rented;
- (4) Any special exceptions or conditional uses included in the municipality's zoning ordinance that apply to attainable housing projects;
- (5) Any other municipal incentives available to property owners who are approved for participation in the municipality's program; and
- (6) The process that a property owner must follow to provide notice of interest for the voluntary program, including the convening of a pre-application conference, and the process for submitting a completed application as set forth in § 13-4-403.

**13-4-403.**

(a) The voluntary attainable housing incentive program must require a property owner to provide written notice of interest for consideration under the program. A municipality shall not compel any property owner to participate in a program.

(b) A potential applicant must provide notice of interest for consideration under a voluntary attainable housing incentive program to the municipal planning commission staff. Upon receipt of a potential applicant's written notice of interest by the municipal planning commission staff, a pre-application conference must be held between the municipal planning commission staff and the potential applicant before a complete application for housing incentives is filed. The purpose of the pre-application conference is to determine whether a potential project satisfies all of the requirements set out in the ordinance created under § 13-4-402.

(c)

(1) Upon the conclusion of the pre-application conference, the municipal planning commission staff, shall either:

(A) Determine that the proposed project satisfies the requirements to receive housing incentives as set out in the ordinance established under § 13-4-402, and thereafter prepare a conference summary document that includes at a minimum:

(i) The parameters of the project, including the timeframe for completing the project;

(ii) The incentives being offered;

(iii) A finding that the potential project conforms to the ordinance and state law; and

(iv) A recommendation to the planning commission; or

(B) Determine that the proposed project does not conform to the ordinance established under § 13-4-402 and state law or that the property owner is no longer interested in participation in the voluntary program.

When the proposed project is determined to not meet the requirements of the ordinance established under § 13-4-402, the property owner may either request another meeting within sixty (60) days of the pre-application conference or move forward with the proposed project without the requested incentives.

(2) Any finding referenced in subdivision (c)(1)(A) by planning commission staff is not binding and does not create any vested property rights for the property owner.

(d) Upon receipt of the pre-application conference summary document, the potential applicant may submit a complete application to the planning commission for

participation in the voluntary attainable housing incentive program. Such application must include a copy of the pre-application conference summary document and an attestation that the applicant is willingly participating in a voluntary program and will construct and complete the project timely within the manner outlined and reviewed in the pre-application conference. The applicant must submit a completed application to the planning commission within one hundred twenty (120) days of receiving the pre-application conference summary document for the completed application to be considered.

(e) The municipal planning commission shall make the final decision on whether to approve the completed application at the next public meeting held after the completed application is submitted. The planning commission shall review the completed application to determine if it is within the parameters of the pre-application conference summary document. If the completed application is determined to be within the parameters of the pre-application conference summary document, the completed application must not be denied based on any provisions set out in the document. The commission may deny the application based upon any legal issue subsequently identified during the review of the completed application.

(f) All facilities, buildings and structures constructed under a voluntary attainable housing incentive program shall be deed restricted to ensure that the attainable housing continues in perpetuity.

SECTION 3. Tennessee Code Annotated, Section 66-35-102(b)(2), is amended by designating the existing language as subdivision (b)(2)(A) and adding the following language as a new subdivision (B):

(B) This subdivision (b)(2) does not preempt a voluntary attainable housing incentive program created under § 13-3-601 or § 13-4-401 that authorizes a municipality

to provide incentives to property owners through zoning or land use planning to develop, build, and sell or rent attainable housing or housing at below market value.

SECTION 4. This act takes effect on July 1, 2024, the public welfare requiring it.