



LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20180002172

ORIGIN

Board of County Commissioners

HEARING DATES

BCC – TBD
 CCPC – TBD
 DSAC – 09/05/18
 DSAC-LDR – 08/21/18

SUMMARY OF AMENDMENT

This amendment simplifies the definition of affordable housing and makes the terminology and income levels consistent with the Florida Statutes and federal guidelines. It also increases the maximum available affordable housing density bonus from 8 units to 12 units.

LDC SECTIONS TO BE AMENDED

1.08.02 Definitions
 2.06.01 Affordable Housing Density Bonus

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR
TBD

DSAC
TBD

CCPC
TBD

BACKGROUND:

The Board of County Commissioners (Board) held two affordable housing workshops, one in 2015 and the other in 2016. These workshops served as the catalyst to form the Housing Stakeholders Group (HSG). The HSG was tasked with creating a two-phase Community Housing Plan (CHP). The first phase of the CHP consisted of the Urban Land Institute’s (ULI) recommendations from their report titled *A ULI Advisory Services Panel Report Collier County, Florida, January 29-February 3, 2017*. The ULI report indicated that Collier County has an affordability problem, and it may become a crisis if unaddressed. The Board unanimously accepted the CHP (Item #11.A) on October 25, 2017 and directed Staff to bring forward each suggestion in the report individually for discussions in workshops.

On February 27, 2018, the Board accepted elements of the CHP by voting in favor of the following:

1. Approve new affordable housing definitions in accordance with discussion at the meeting;
2. Accept the staff-recommended updates of the housing demand model and its methodology;
3. Adopt a resolution (i.e., 2018-38) to advocate support and authorize the county's lobbyists to support current and future state and federal legislation;
4. Adopt a resolution (i.e., 2018-39) to consider housing that is affordable in future public land acquisitions;
5. Accept the Affordable Housing Density Bonus Program (AHDB Program) to increase the affordable housing density bonus from eight extra units per acre to up to 12 extra units per acre; and
6. Adopt a resolution (i.e., 2018-40) to amend the expedited permitting and fast track procedure.

This code amendment represents the end-product of #1 (definition) and #5 (AHDB Program) above. Under the definition there are five income levels detailed, ranging up to 140 percent Area Median Income (AMI). These income categories include the following: extremely-low-income, very-low-income, low-

income, moderate-income, and gap-income. Costs used to determine affordability include the anticipated monthly rent/mortgage payment, property tax, insurance, and required fees (such as mandatory condominium or homeowner association fees and assessments).

There are four income levels used in the AHDB Program, including very-low-income, low-income, moderate-income, and gap-income. For purposes of the AHDB Program, the extremely-low-income category is grouped together with the very-low-income category, which staff anticipates is sufficient to address the full spectrum of housing to be built. In accordance with F.S. 420.9075 (4)(e) and to avoid duplicative efforts, staff also is proposing a provision in LDC section 2.06.05 B.6, which would allow staff to accept annual reports from the Florida Housing Finance Corporation to help developers demonstrate compliance with tenant eligibility and qualification requirements of the AHDB Program.

FISCAL & OPERATIONAL IMPACTS

There are no anticipated fiscal or operational impacts associated with this amendment.

GMP CONSISTENCY

There is a companion GMP amendment that proposes to revise terminology and increase the affordable housing density bonus from 8 to 12 dwelling units per acre. That GMP amendment is necessary so that this LDC amendment may be found consistent with the GMP.

ATTACHMENTS: N/A

Amend the LDC as follows:

1.08.02 Definitions

* * * * *

Affordable Housing: Housing is affordable to a household when a residential dwelling unit with monthly rent or monthly mortgage payment, including property taxes, insurance, and required fees are not in excess of 30 percent of that amount which represents the percentage of the median annual gross income for the household.

Affordable housing specifically includes the following income level targets for Collier County, based on the income categories as determined by the Secretary of the U.S. Department of Housing and Urban Development:

- a. Extremely-low-income: Households whose incomes do not exceed 30 percent of the median income.
- b. Very-low-income: Households whose incomes are less than 50 percent of the median income.
- c. Low-income: Households whose incomes are greater than or equal to 50 percent but less than 80 percent of the median income.
- d. Moderate-income: Households whose incomes are greater than or equal to 80 percent but less than 120 percent of the median income.
- e. Gap-income: Households whose incomes are greater than or equal to 120 percent but less than 140 percent of the median income.

* * * * *

Approved Affordable Housing: Affordable Housing that includes a long-term affordability restriction wherein the cost of housing and income of the household are known and monitored, for a specific period of time.

~~Housing, affordable workforce: means residential dwelling units with a monthly rent or monthly mortgage payment, including property taxes and insurance, not in excess of 1/12 of 30 percent of an amount which represents a range of median adjusted gross annual income (median income) for households as published annually by the U.S. Department of Housing and Urban Development within the Naples Metropolitan Statistical Area (MSA) (See section 2.05.02), specifically including the following subsets:~~

~~Owner occupied workforce housing: 50 percent or less of median income, otherwise considered to be "very-low income".~~

~~Owner occupied workforce housing: 51 percent—60 percent of median income, otherwise considered to be "low income".~~

1 ~~Owner-occupied workforce housing: 61 percent—80 percent of median income, otherwise~~
2 ~~considered to be "low income".~~

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4 ~~Owner-occupied workforce housing: 81 percent—100 percent of median income,~~
5 ~~otherwise considered to be "moderate income".~~

6
7 ~~Owner-occupied gap housing: 81 percent—150 percent of median income.~~

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9 ~~Rental workforce housing less than 50 percent of median income, otherwise considered~~
10 ~~to be "very-low income".~~

11
12 ~~Rental workforce housing from 51 percent—60 percent of median income, otherwise~~
13 ~~considered to be "low income".~~

14
15 ~~The term affordable housing is specifically intended to include affordable workforce~~
16 ~~housing.~~

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18 ~~Housing, gap: means residential dwelling units with a monthly rent or monthly mortgage payment,~~
19 ~~including property taxes and insurance, not in excess of 1/12 of 30 percent of an amount which~~
20 ~~represents a range of median adjusted gross annual income (median income) for households as~~
21 ~~published annually by the U.S. Department of Housing and Urban Development within the Naples~~
22 ~~Metropolitan Statistical Area (MSA) (See section 2.05.02), specifically including the following~~
23 ~~subset:~~

24 ~~The term "gap housing: 81 percent—150 percent of median income" is specifically~~
25 ~~intended to include similar categories, such as "Essential Personnel Housing",~~
26 ~~"Professional Housing", and "Reasonably Priced Housing". Gap housing is intended to~~
27 ~~provide housing for households falling above the federal and state assistance guidelines,~~
28 ~~but still unable to afford market priced homes.~~

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32 **2.06.00 – AFFORDABLE HOUSING DENSITY BONUSES**

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34 **2.06.01 – Generally**

- 35
36 A. Within most of the coastal urban designated areas identified on the future land use map of
37 the Collier County [Growth Management Plan \(GMP\)](#), a base density of four ~~(4)~~
38 residential dwelling units per gross acre is permitted. However, the base density may
39 be adjusted depending on the characteristics of the development. One characteristic of
40 a housing development which would allow the addition of density bonuses in order to
41 increase the density over the base density is the provision of affordable housing in the
42 development. The provision of affordable housing units may add up to ~~eight (8)~~ 12
43 dwelling units per gross acre to the base density of four ~~(4)~~ residential dwelling units per
44 gross acre, for a total of ~~twelve (12)~~ 16 residential dwelling units per gross acre, plus any
45 other density bonuses available, and minus any density reduction for [the coastal high](#)
46 [hazard traffic congestion](#) area [that is](#) required, pursuant to the [Collier County](#) GMP.
47 The total eligible density must not exceed a total of ~~sixteen (16)~~ dwelling units per gross

1 acre, except as allowed through use of transfer of development rights, as provided for in
2 the growth management plan. The program to accomplish this increase to provide
3 affordable housing is called the affordable housing density bonus (ADHB) program.
4

5 B. Within most of the Immokalee Urban area, as identified on the Immokalee area master
6 plan future land use map of the growth management plan, base densities are four or
7 six or eight residential dwelling units per gross acre. However, the base density may
8 be adjusted depending on the characteristics of the development. One characteristic of
9 a housing development that would allow the addition of density bonuses is the provision
10 of affordable housing in the development. The provision of affordable housing units
11 may add up to ~~12~~ ~~eight~~ dwelling units per gross acre to the base density ~~of four, six~~
12 ~~or eight residential dwelling units per gross acre, for a total of twelve, fourteen or~~
13 ~~sixteen residential dwelling units per gross acre,~~ plus any other density bonuses
14 available. The total eligible density must not exceed a total of 16 dwelling units per gross
15 acre.
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17 C. Within the Rural Lands Stewardship Area Overlay of the Agricultural/Rural area, as
18 identified on the future land use map of the growth management plan, towns, villages,
19 hamlets and compact rural developments are allowed at a density range of one-half to
20 four dwelling units per gross acre. The allowed density may be adjusted depending on
21 the characteristics of the development. One characteristic of a housing development
22 that would allow the addition of density bonuses is the provision of affordable housing
23 in the development. The provision of affordable housing units may add up to eight
24 dwelling units per gross acre to the allowed density of one-half to four dwelling units
25 per gross acre, for a total of eight and one-half to twelve and one-half residential
26 dwelling units per gross acre, plus any other density bonuses available.
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28 D. In order to qualify for the AHDB for a development, the developer must apply for and
29 obtain the AHDB from the County for a development in accordance with this section,
30 especially in accordance with the provisions of the AHDB program, including the AHDB
31 rating system, the AHDB monitoring program, and the limitations on the AHDB.
32

33 1. *Preapplication conference.* Prior to submitting an application for AHDB, a
34 preapplication conference may be scheduled with the County Manager or ~~his~~
35 ~~designee. If the proposed development is to include affordable housing, the~~
36 ~~housing and urban improvement director, must participate in the~~
37 ~~preapplication conference.~~ The preapplication conference provides an
38 opportunity to familiarize the applicant with the AHDB program and provides an
39 opportunity for the county staff to obtain a clear understanding of the proposed
40 development. The AHDB rating system, the AHDB monitoring program, the
41 limitations, criteria, procedures, standard conditions, standard forms, and other
42 information will be discussed and made available to the applicant. Depending on
43 the type of development proposed, the application may be combined with an
44 application for a planned unit development (PUD), a rezone, or a Stewardship
45 Receiving Area.
46

47 2. *Application.* An application for AHDB for a development must be submitted to
48 the County Manager or ~~his~~ designee in the form established by the County
49 Manager or ~~his~~ designee. ~~One additional copy of the application as otherwise~~
50 ~~required must be provided for the housing and urban improvement director.~~
51 The application must, at a minimum, include:

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- a. Zoning districts proposed by the applicant on the property and acreage of each;
- b. The total number of residential dwelling units in the proposed development, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
- c. The total number of AHDB units requested, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
- d. Total number of dwelling affordable housing units proposed in the development, categorized by level of income, number of bedrooms (one bedroom, two bedrooms, three bedrooms, or more), and rental units and owner-occupied units:
 - i. Gap-income households [$\geq 120\%$ to $< 140\%$ of median income (MI)].
 - ii. Moderate-income households (~~one bedroom, two bedrooms, or three bedrooms or more~~ $\geq 80\%$ to $< 120\%$ of MI).
 - iii. Low-income households (~~one bedroom, two bedrooms, or three bedrooms or more~~ $\geq 50\%$ to $< 80\%$ of MI).
 - iv. Very-low-income households (~~one bedroom, two bedrooms, or three bedrooms or more~~ $< 50\%$ of MI).
 - v. Market rate dwelling ~~Total affordable housing units (one bedroom, two bedrooms, or three bedrooms or more)~~.
- e. Gross density of the proposed development;
- f. Whether the AHDB is requested in conjunction with an application for a ~~planned-unit-development (PUD)~~, an application for rezoning, an application for a Stewardship Receiving Area, or a conditional use application for a Commercial Mixed-Use project as provided for within LDC section 4.02.38 ~~of the LDC~~; and
- g. Any other information which would reasonably be needed to address the request for AHDB for the development pursuant to the requirements set forth in this section.

3. *Determination of completeness.* After receipt of an application for AHDB, the County Manger or designee ~~housing and urban improvement director~~ shall determine whether the application submitted is complete. If he determines that the application is not complete, the County Manger or designee ~~housing and urban improvement director~~ shall notify the **applicant** in writing of the deficiencies. The County Manger or designee ~~housing and urban improvement director~~ shall take no further steps to process the application until the deficiencies have been remedied.

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- 4. *Review and recommendation by the County Manager or designee.* After receipt of a completed application for AHDB, the County Manager or designee must review and evaluate the application in light of the AHDB rating system, the AHDB monitoring program and the requirements of this section. The County Manager or designee must coordinate with the Zoning Division ~~development services~~ director or designee to schedule the AHDB application with the companion application for rezoning, PUD, ~~planned-unit-development~~ or stewardship receiving area, and must recommend to the planning commission and the BCC to deny, grant, or grant with conditions, the AHDB application. The recommendation of the County Manager or designee must include a report in support of recommendation.

- 5. *Review and recommendation by the planning commission.* Upon receipt by the planning commission of the application for AHDB and the written recommendation and report of the County Manager or designee, the planning commission must schedule and hold a properly advertised and duly noticed public hearing on the application. If the application has been submitted in conjunction with an application for a PUD, then the hearing must be consolidated and made a part of the public hearing on the application for the PUD before the planning commission, and the planning commission must consider the application for AHDB in conjunction with the application for the PUD. If the application has been submitted in conjunction with an application for a rezoning, then the hearing must be consolidated and made a part of the public hearing on the application for rezoning before the planning commission, and the planning commission must consider the application for AHDB in conjunction with the application for rezoning. If the application has been submitted in conjunction with an application for a stewardship receiving area, then the hearing must be consolidated and made a part of the public hearing on the application for stewardship receiving area before the planning commission, and the planning commission must consider the application for AHDB in conjunction with the application for stewardship receiving area. After the close of the public hearing, the planning commission must review and evaluate the application in light of the requirements of this section and the requirements for a rezoning, PUD rezoning, or stewardship receiving area, as applicable, and must recommend to the BCC that the application be denied, granted or granted with conditions.

- 6. *Review and determination by Board of County Commissioners (BCC).* Upon receipt by the BCC of the application for AHDB and the written recommendation and report of the County Manager or designee and recommendation of the planning commission, the BCC must schedule and hold a properly advertised and duly noticed public hearing on the application. If the application has been submitted in conjunction with an application for a ~~planned-unit-development (PUD)~~, then the hearing must be consolidated and made a part of the public hearing on the application for the ~~planned-unit-development (PUD)~~ before the BCC, and the BCC must consider the application for AHDB in conjunction with the application for the ~~planned-unit-development (PUD)~~. If the application has been submitted in conjunction with an application for a rezoning, then the hearing must be consolidated and made a part of the public hearing on the application for rezoning before the BCC, and the BCC must consider the

1 application for AHDB in conjunction with the application for rezoning. If the
2 application has been submitted in conjunction with an application for a
3 stewardship receiving area, then the hearing must be consolidated and made
4 a part of the public hearing on the application for stewardship receiving area
5 before the BCC, and the BCC must consider the application for AHDB in
6 conjunction with the application for stewardship receiving area. After the close
7 of the public hearing, the BCC must review and evaluate the application in
8 light of the requirements of this section and the requirements for a rezoning,
9 and must deny, grant, or grant with conditions, the application in accordance
10 with the AHDB rating system and the AHDB monitoring program.

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- 12 E. The procedures to request approval of a density bonus are described in Chapter 10 of
- 13 this LDC, along with requirements for the developer's agreement to ensure compliance.
- 14

15 **2.06.02 – Purpose and Intent**

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- 17 A. Section 2.06.00 is intended to implement and be consistent with the GMP, § 163.3161 *et*
- 18 *seq.* F.S, Rule 9J-5, F.A.C., and the Stipulated Settlement Agreement in DOAH Case
- 19 No. 89-1299 GM, by providing for moderate, low, and very-low-income housing through
- 20 the use of density bonuses which allow an increase in the number of residential dwelling
- 21 units per acre allowed on property proposed for development, thereby decreasing the
- 22 per unit cost of land and development.
- 23
- 24 B. This objective is accomplished by implementing an AHDB program which consists of an
- 25 AHDB rating system and an AHDB monitoring program. The purpose of the AHDB
- 26 rating system is to provide increased residential densities to developers who guarantee
- 27 that a portion of their housing development will be affordable by households of gap
- 28 ≥120% to <140% of median income (MI), moderate ≥80% to <120% of MI, low ≥50%
- 29 to <80% of MI, or very-low-income <50% of MI, thus expanding housing opportunities
- 30 for gap, moderate, low, and very-low-income households throughout the county. The
- 31 purpose of the AHDB monitoring program is to provide assurance that the program is
- 32 properly implemented, monitored, and enforced, and that useful information on
- 33 affordable housing may be collected.
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35 **2.06.03 – AHDB Rating System**

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- 37 A. The AHDB rating system shall be used to determine the amount of the AHDB which may
- 38 be granted for a development, based on household income level, type of affordable
- 39 housing units (owner-occupied or rental, single-family or multi-family), and percentage
- 40 of affordable housing units in the development. To use the AHDB rating system, Table
- 41 A below, shall be used. Table A shall be reviewed and updated, if necessary, on an
- 42 annual basis by the BCC or its designee.
- 43

44 ~~1. First, choose the household income level (50% of median income, 60% of~~
45 ~~median income, or 80% of median income) of the affordable housing unit(s)~~
46 ~~proposed in the development, and the type of affordable housing units (owner-~~
47 ~~occupied or rental, single-family or multi-family, where applicable) to be~~
48 ~~provided, as shown in Table A. An AHDB based on the household income~~
49 ~~level is shown in Table A. Table A will indicate the maximum number of~~
50 ~~residential dwelling units per gross acre that may be added to the base~~
51 ~~density. These additional residential dwelling units per gross acre are the~~

maximum AHDB available to that development. Developments with percentages of affordable housing units which fall in between the percentages shown on Table A shall receive an AHDB equal to the lower of the 2 percentages it lies between, plus 1/10 of a residential dwelling unit per gross acre for each additional percentage of affordable housing units in the development. For example, a development which has 24 percent of its total residential dwelling units as affordable housing units, at the 80 percent MI level will receive an AHDB of 2.4 residential dwelling units per gross acre for the development.

2. Where more than 1 type of affordable housing unit (based on level of income shown in Table A) is proposed for a development, the AHDB for each type shall be calculated separately. After the AHDB calculations for each type of affordable housing unit have been completed, the AHDB for each type of unit shall be added to those for the other type(s) to determine the maximum AHDB available for the development. In no event shall the AHDB exceed eight (8) dwelling units per gross acre.

**Table A. Affordable-Workforce-Gap Housing Density Bonus
(Additional Available Dwelling Units Per Gross Acre)**

Maximum Allowable Density Bonus by Percent of Development Designated as Affordable-
Workforce-Gap Housing¹

Product ²	Household Income (% median)	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
Gap	<u>≥120% to <140% of MI^{3,4}</u> 81-150% MI* **	1	2	3	4	5	6	<u>7</u> 6	<u>8</u> 6	<u>n/a</u> -6	n/a
Moderate Workforce	<u>≥80% to <120% of MI³</u> 61-80% MI*	2	<u>4</u> 3	5	<u>6</u> 8	<u>7</u> 8	8	<u>9</u> 8	<u>10</u> 8	<u>11</u> 8	<u>12</u> 8
Low	<u>≥50% to <80% of MI</u> 51-60%	3	<u>6</u> 4	<u>7</u> 6	8	<u>9</u> 8	<u>10</u> 8	<u>11</u> 8	<u>12</u> 8	<u>12</u> 8	<u>12</u> 8
Very Low	<u><50% of MI</u> 50% or less MI	4	<u>8</u> 5	<u>9</u> 7	<u>10</u> 8	<u>11</u> 8	<u>12</u> 8	<u>12</u> 8	<u>12</u> 8	<u>12</u> 8	<u>12</u> 8

1 Developments with percentages of affordable housing units which fall in between the percentages shown on Table A shall receive an AHDB equal to the lower of the two percentages it lies between, plus 1/10 of a residential dwelling unit per gross acre for each additional percentage of affordable housing units in the development.

1 2 Where more than one type of affordable housing unit (based on level of income
2 shown above) is proposed for a development, the AHDB for each type shall be
3 calculated separately. After the AHDB calculations for each type of affordable
4 housing unit have been completed, the AHDB for each type of unit shall be
5 added to those for the other type(s) to determine the maximum AHDB available
6 for the development. In no event shall the AHDB exceed 12 dwelling units per gross
7 acre.

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9 3* Owner-occupied only

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11 4** May only be used in conjunction with at least 20 40% ~~at or~~ below 120 80% MI

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13 ~~Total Allowable Density = Base Density + Affordable Workforce Gap Housing Density~~
14 ~~Bonus. In no event shall the maximum gross density allowed exceed 16 units per acre.~~

- 15
16 B. The AHDB shall be available to a development only to the extent that it otherwise
17 complies and is consistent with the GMP and the land development regulations,
18 including the procedures, requirements, conditions, and criteria for "PUDs" and rezonings,
19 where applicable.
20
21 C. The minimum number of affordable housing units that shall be provided in a development
22 pursuant to this section shall be ~~ten (10)~~ percent of the total affordable housing units.
23
24 D. The ratio of number of bedrooms per affordable housing unit shall in general be equal to
25 the ratio of the number of bedrooms per residential unit for the entire development.
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27 **2.06.04 - Limitations on Affordable Housing Density Bonus**

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29 Anything to the contrary notwithstanding, the following limitations and conditions shall apply to all
30 of the AHDB for a development:

- 31
32 A. *Affordable housing density bonus development agreement required.* The AHDB shall
33 be available to a development only when an AHDB development agreement has been
34 entered into by the developer/ applicant and the BCC, and such agreement has been
35 approved by the county attorney and the BCC pursuant to the public hearing process
36 established in this section prior to execution. Amendments to such agreement shall be
37 processed in the same manner as the original agreement. The AHDB development
38 agreement shall include, at a minimum, the following provisions:
39
40 1. Legal description of the land subject to the agreement and the names of its
41 legal and equitable owners.
42
43 2. Total number of residential dwelling units in the development.
44
45 3. Minimum number of affordable housing units, categorized by level of household
46 income, type of unit (single-family or multifamily, owner-occupied or rental), and
47 number of bedrooms, required in the development.
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49 4. Maximum number of AHDB dwelling units permitted in the development.
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51 5. Gross residential density of the development.

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6. Amount of monthly rent for rental units, or the price and conditions under which an owner-occupied unit will be sold, for each type of affordable housing unit in accordance with the definition for each type of affordable housing rental unit – gap [120% to <140% of median income (MI)], moderate (≥80% to <120% of MI), low (≥50% to <80% of MI), and very-low (<50% of MI).
 7. The foregoing notwithstanding, any rent charged for an affordable housing unit rented to a low [≥50% to <80% of (MI)] or very-low-income (<50% of MI) household family shall not exceed ~~90 percent of the rent charged for a comparable market rate dwelling in the same or similar development. Comparable market rate means the rental amount charged for the last market rate dwelling unit of comparable market rate dwelling in the same or similar development. Comparable market rate means the rental amount charged for the last market rate dwelling unit of comparable square footage, amenities, and number of bedrooms, to be rented in the same development~~ the amount published by the Florida Housing Finance Corporation for Collier County adjusted by income level, family size, and number of bedrooms, and updated annually.
 8. No affordable housing unit in the development shall be rented to a tenant whose household income has not been verified and certified in accordance with this division as a moderate, low (≥50% to <80% of MI), or very-low-income (<50% of MI) household family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the County Manager or ~~his~~ designee for approval. Tenant income verification and certification shall be repeated annually to assure continued eligibility.
 9. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in the development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this section as a gap [≥120% to <140% of median income (MI)], moderate (≥80% to <120% of MI), low (≥50% to <80% of MI), or very-low-income (<50% of MI) household family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the County Manager or ~~his~~ designee for approval. It is the intent of this section to keep housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Collier County, Florida, that if he sells the property (including the land and/or the unit) within 15 years after ~~his~~ original purchase at a sales price in excess of five percent per year of ~~his~~ original purchase price that he will pay to the county an amount equal to one-half of the sales price in excess of five percent increase per year. The lien instrument may be subordinated to a qualifying first mortgage.
 10. For example, a person originally buys a designated affordable housing unit (a house) for \$60,000.00 and sells it after five years for \$80,000.00. A five percent increase per year for five years will give a value of \$76,577.00. Subtracting this amount from the sales price of \$80,000.00 gives a difference of \$3,423.00. The seller would then owe the county \$1,711.50 (one-half of \$3,423.00). Payment of this amount would release the first owner from the recorded lien against the property. Such payment shall be maintained in a segregated fund, established

1 by the county solely for affordable housing purposes, and such money shall be
2 used solely to encourage, provide for, or promote affordable housing in Collier
3 County.
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- 5 11. No affordable housing unit in any building or structure in the development shall
6 be occupied by the developer, any person related to or affiliated with the
7 developer, or a resident manager.
8
- 9 12. When the developer advertises, rents, sells or maintains the affordable housing
10 unit, it must advertise, rent, sell, and maintain the same in a nondiscriminatory
11 manner and make available any relevant information to any person who is
12 interested in renting or purchasing such affordable housing unit. The developer
13 shall agree to be responsible for payment of any real estate commissions and
14 fees. The affordable housing units in the development shall be identified on all
15 building plans submitted to the county and described in the application for
16 AHDB.
17
- 18 13. The developer shall not disclose to persons, other than the potential tenant,
19 buyer or lender of the particular affordable housing unit or units, which units in
20 the development are designated as affordable housing units.
21
- 22 14. The square footage, construction and design of the affordable housing units shall
23 be the same as market rate dwelling units in the development.
24
- 25 15. The AHDB agreement and authorized development shall be consistent with the
26 growth management plan and land development regulations of Collier County
27 that are in effect at the time of development. Subsequently adopted laws and
28 policies shall apply to the AHDB agreement and the development to the extent that
29 they are not in conflict with the number, type of affordable housing units and the
30 amount of AHDB approved for the development.
31
- 32 16. The affordable housing units shall be intermixed with, and not segregated
33 from, the market rate dwelling units in the development.
34
- 35 17. The conditions contained in the AHDB development agreement shall constitute
36 covenants, restrictions, and conditions which shall run with the land and shall be
37 binding upon the property and every person having any interest therein at any time
38 and from time to time.
39
- 40 18. The AHDB development agreement shall be recorded in the official records of
41 Collier County, Florida, subsequent to the recordation of the grant deed pursuant
42 to which the developer acquires fee simple title to the property.
43
- 44 19. Each affordable housing rental unit shall be restricted to remain and be maintained
45 as the type of affordable housing rental unit (moderate, low or very-low-
46 income) designated in accordance with the AHDB development agreement for
47 at least 30 ~~15~~ years from the issuance of a certificate of occupancy for such unit.
48
- 49 20. The developer and owner of a rental ~~the~~ development shall provide on-site
50 management to assure appropriate security, maintenance and appearance of the
51 development and the dwelling units where these issues are a factor.

- 1
2 B. *Compliance with growth management plan and land development regulations.* The AHDB
3 shall be available to a development only to the extent that it otherwise complies and is
4 consistent with the GMP and the land development regulations, including the procedures,
5 requirements, conditions and criteria for ~~planned-unit-developments (PUDs)~~ and
6 rezonings, where applicable.
7
8 C. *Minimum number of affordable housing units.* The minimum number of affordable
9 housing units that shall be provided in a development pursuant to this section shall be
10 ~~ten~~ 10 percent of the total ~~affordable~~ housing units.
11
12 D. *Nontransferable.* The AHDB is not transferrable between developments or properties.
13
14 E. *Phasing.* In the case where a development will occur in more than one phase, the
15 percentage of affordable housing units to which the developer has committed for the
16 total development shall be maintained in each phase and shall be constructed as
17 part of each phase of the development on the property. For example, if the total
18 development's AHDB is based on the provision of ten percent of the total dwelling units
19 as affordable housing rental units for low income households with two bedrooms per
20 unit, then each phase must maintain that same percentage (10% ~~ten~~ percent in this
21 case) cumulatively.
22

23 **2.06.05 - Affordable Housing Density Bonus Monitoring Program**

24

- 25 A. *Annual progress and monitoring report.* The AHDB for a development shall be subject to
26 the AHDB monitoring program set forth in this section. The developer shall provide the
27 County Manager or ~~his~~ designee with an annual progress and monitoring report regarding
28 the delivery of affordable housing rental/ownership units throughout the period of their
29 construction, rental, sale, and occupancy for each of the developer's developments which
30 involve the AHDB in a form developed by the County Manager or ~~his~~ designee. The
31 annual progress and monitoring report shall, at a minimum, require any information
32 reasonably helpful to ensure compliance with this section and provide information with
33 regard to affordable housing in Collier County. To the extent feasible, the County
34 Manager or ~~his~~ designee shall maintain public records of all dwelling units (AHDB and
35 affordable housing units) constructed pursuant to the AHDB program, all affordable
36 housing units constructed pursuant to the AHDB program, occupancy statistics of such
37 dwelling units, complaints of violations of this section which are alleged to have
38 occurred, the disposition of all such complaints, a list of those persons who have
39 participated as tenants or buyers in the AHDB program, and such other records and
40 information as the County Manager or ~~his~~ designee believes may be necessary or
41 desirable to monitor the success of the AHDB program and the degree of compliance
42 therewith. Failure to complete and submit the monitoring report to the County Manager
43 or ~~his~~ designee within 60 days from the due date will result in a penalty of up to \$50.00
44 per day per incident or occurrence unless a written extension not to exceed 30 days is
45 requested prior to expiration of the 60-day submission deadline.
46
47 B. *Income verification and certification.*
48
49 1. Eligibility. The determination of eligibility of gap [$\geq 120\%$ to $< 140\%$ of median
50 income (MI)], moderate ($\geq 80\%$ to $< 120\%$ of MI), low ($\geq 50\%$ to $< 80\%$ of MI), and
51 very-low-income ($< 50\%$ of MI) households to rent or buy and occupy affordable

1 housing units is the central component of the AHDB monitoring program.
2 Household income eligibility is a three-step process:

- 3
4 (a) Submittal of an application by a buyer or tenant;
5
6 (b) Verification of household income; and
7
8 (c) Execution of an income certification.
9

10 All three shall be accomplished prior to a buyer or tenant being qualified as an
11 eligible household to rent or purchase and occupy an affordable housing unit
12 pursuant to the AHDB program. No person shall occupy an affordable housing
13 unit provided under the AHDB program prior to being qualified at the appropriate
14 level of income (gap, moderate, low or very-low-income).
15

16 ~~Eligibility.— The determination of eligibility of moderate, low, and very low~~
17 ~~income families to rent or buy and occupy affordable housing units is the central~~
18 ~~component of the AHDB monitoring program. Family income eligibility is a three-~~
19 ~~step process: (1) submittal of an application by a buyer or tenant; (2) verification~~
20 ~~of family income; and (3) execution of an income certification. All three shall be~~
21 ~~accomplished prior to a buyer or tenant being qualified as an eligible family to rent~~
22 ~~or purchase and occupy an affordable housing unit pursuant to the AHDB program.~~
23 ~~No person shall occupy an affordable housing unit provided under the AHDB~~
24 ~~program prior to being qualified at the appropriate level of income (moderate, low~~
25 ~~or very low income).~~
26

- 27 2. The developer shall be responsible for accepting applications from buyers or
28 tenants, verifying income and obtaining the income certification for its development
29 which involves AHDB, and all forms and documentation must be provided to the
30 County Manager or ~~his~~ designee prior to qualification of the buyer or tenant as
31 a gap [≥120% to <140% of median income (MI)], moderate (≥80% to <120% of
32 MI), low (≥50% to <80% of MI), or very-low-income (<50% of MI) ~~household family~~.
33 The County Manager or ~~his~~ designee shall review all documentation provided,
34 and may verify the information provided from time to time. Prior to occupancy
35 by a qualified buyer or tenant, the developer shall provide to the County Manager
36 or ~~his~~ designee, at a minimum, the application for affordable housing
37 qualification, including the income verification form and the income certification
38 form, and the purchase contract, lease, or rental agreement for that qualified buyer
39 or tenant. At a minimum, the lease shall include the name, address and telephone
40 number of the head of household and all other occupants, a description of the unit
41 to be rented, the term of the lease, the rental amount, the use of the premises,
42 and the rights and obligations of the parties. Random inspections to verify
43 occupancy in accordance with this section may be conducted by the County
44 Manager or ~~his~~ designee.
45
46 3. Application. A potential buyer or tenant shall apply to the developer, owner,
47 manager, or agent to qualify as a gap [≥120% to <140% of median income (MI)],
48 moderate (≥80% to <120% of MI), low (≥50% to <80% of MI), or very-low-income
49 (<50% of MI) ~~household family~~ for the purpose of renting, or owning and
50 occupying an affordable housing ~~rental~~ unit pursuant to the AHDB program. The
51 application for affordable housing qualification shall be in a form provided by the

1 County Manager or ~~his~~ designee and may be a part of the income certification
2 form.
3

4 4. Income verification. The County Manager or ~~his~~ designee or the developer shall
5 obtain written verification from the potential occupant (including the entire
6 household) to verify all regular sources of income to the potential tenant/owner
7 (including the entire household). The written verification form shall include, at a
8 minimum, the purpose of the verification, a statement to release information,
9 employer verification of gross annual income or rate of pay, number of hours
10 worked, frequency of pay, bonuses, tips and commissions and a signature block
11 with the date of application. The verification may take the form of the most recent
12 year's federal income tax return for the potential occupants (including the entire
13 household), a statement to release information, tenant verification of the return,
14 and a signature block with the date of application. The verification shall be valid
15 for up to 90 days prior to occupancy. Upon expiration of the 90-day period, the
16 information may be verbally updated from the original sources for an additional
17 30 days, provided it has been documented by the person preparing the original
18 verification. After this time, a new verification form must be completed.
19

20 5. Income certification. Upon receipt of the application and verification of income,
21 an income certification form shall be executed by the potential buyer or tenant
22 (including the entire household) prior to sale or rental and occupancy of the
23 affordable housing unit by the owner or tenant. Income certification that the
24 potential occupant has a gap [≥120% to <140% of median income (MI)], moderate
25 (≥80% to <120% of MI), low (≥50% to <80% of MI), or very-low-income (<50% of
26 MI) household income qualifies the potential occupant as an eligible household
27 ~~family~~ to buy or rent and occupy an affordable housing unit under the AHDB
28 program. The income certification shall be in a form provided by the County
29 Manager or ~~his~~ designee.
30

31 6. Notwithstanding any language to the contrary contained herein, the Developer shall
32 be deemed in compliance with the AHDB agreement if the Developer has complied
33 with the tenant eligibility and qualification requirements of the Florida Housing
34 Finance Corporation by providing Community and Human Services a copy of the
35 annual Florida Housing Finance Corporation compliance and program reports.
36

37 2.06.06 - Violations and Enforcement

38
39 A. *Violations.* It is a violation of section 2.06.00 to rent, sell or occupy, or attempt to rent, sell
40 or occupy, an affordable housing ~~rental~~ unit provided under the AHDB program except
41 as specifically permitted by the terms of section 2.06.00, or to knowingly give false or
42 misleading information with respect to any information required or requested by the
43 County Manager or ~~his~~ designee or by other persons pursuant to the authority which is
44 delegated to them by section 2.06.00.
45

46 B. *Notice of violation.* Whenever it is determined that there is a violation of section 2.06.00,
47 a notice of violation shall be issued and sent by the County Manager or ~~his~~ designee by
48 certified return receipt requested U.S. mail, or hand delivery to the person or developer
49 in violation of section 2.06.00. The notice of violation shall be in writing, shall be signed
50 and dated by the County Manager or ~~his~~ designee or such other county personnel
51 as may be authorized by the BCC, shall specify the violation or violations, shall state

1 that said violation(s) shall be corrected within ~~10~~ ~~ten~~ days of the date of notice of
2 violation, and shall state that if said violation(s) is not corrected by the specified date that
3 civil and/or criminal enforcement may be pursued. If said violation(s) is not corrected by
4 the specified date in the notice of violation, the County Manager or ~~his~~ designee shall
5 issue a citation which shall state the date and time of issuance, name and address
6 of the person in violation, date of the violation, section of these regulations, or
7 subsequent amendments thereto, violated, name of the County Manager or ~~his~~
8 designee, and date and time when the violator shall appear before the code enforcement
9 board.

10
11 C. *Criminal enforcement.* Any person who violates any provision of this section shall, upon
12 conviction, be punished by a fine not to exceed \$500.00 per violation or by imprisonment
13 in the county jail for a term not to exceed 60 days, or by both, pursuant to the provisions
14 of F.S. § 125.69. Such person also shall pay all costs, including reasonable
15 attorney's fees, including those incurred on appeal, involved in the case. Each day
16 such violation continues, and each violation, shall be considered a separate offense.

17
18 D. *Civil enforcement.* In addition to any criminal penalties which may be imposed pursuant
19 to section 2.06.06 C. above, Collier County and the County Manager or ~~his~~ designee
20 shall have full power to enforce the terms of this section and any AHDB development
21 agreements, rezoning conditions or stipulations, and planned unit development (PUD)
22 conditions and stipulations pursuant to this section and the rights, privileges and
23 conditions described herein, by action at law or equity. In the event that it is determined
24 that a violation has occurred and has not or will not be corrected within 60 days, the
25 certificate of occupancy for all AHDB units within the development shall be withdrawn and
26 the sanctions or penalties provided in the AHDB development agreement shall be
27 pursued to the fullest extent allowed by law.

28
29 # # # # # # # # # # # # #