



Memorandum

To: Development Services Advisory Committee-Land Development Review Subcommittee (DSAC-LDR)

From: Eric Johnson, Principal Planner

Date: October 9, 2018

Re: PL20180002172 Affordable Housing Density Bonus

This land development code amendment (LDCA) was reviewed and approved with changes by both the DSAC-LDR and the DSAC. Staff originally intended for the LDCA to be reviewed by the Collier County Planning Commission (CCPC) on either October 4, 2018 or October 18, 2018; however, with continued staff review and changes, the item has been pushed back until November 1, 2018.

As expected, multiple changes have been made to the LDCA throughout the process. In an abundance of caution, staff wanted to share the latest changes that were initiated by staff to the DSAC-LDR, prior to the item moving forward to the CCPC hearing.

Attached is a document containing highlighted text which generally represents the latest substantive changes since when the LDCA was reviewed by the DSAC last. Staff is not seeking any additional vote from the DSAC-LDR.

Thank you for your consideration in this matter.

Sincerely,

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LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20180002172

ORIGIN

Board of County
Commissioners (Board)

HEARING DATES

BCC 12/11/2018
CCPC 11/01/2018
DSAC 09/05/2018
DSAC-LDR 08/21/2018

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
2.06.00 Affordable Housing Density Bonus (multiple sections)

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR

Approval with Changes

DSAC

Unanimous Approval

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 Median Income (MI) for Collier County. 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. Even though the extremely-low-income category is not used in the Program, it is important to retain this threshold of household income in the Definitions, because this category is used in other County programs and reports. 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.

This amendment would change the minimum number of required affordable housing units per development, from 10 units to 10 percent of the total housing units. This change is consistent with current Community and Human Services policy.

DSAC-LDR Recommendations:

1. Reword a portion of the affordable housing definition, in part, by creating two separate sentences from what was one longer sentence.
2. Modify Table A. Affordable Housing Density Bonus to include the table's title as the top row, re-introduce a note under the table that was previously earmarked by staff for deletion, and renumber the notes associated with the table.
3. Change the income verification provisions to allow the most recent year's *filed* income tax returns.

DSAC Recommendations:

1. Incorporate the minor changes that staff mentioned at the DSAC meeting.

FISCAL & OPERATIONAL IMPACTS

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

GMP CONSISTENCY

There is a related 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.

EXHIBITS: A- Summary of Proposed Changes

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Amend the LDC as follows:

1.08.02 Definitions

* * * * *

Affordable Housing: Housing is deemed affordable when the cost of a residential dwelling unit does not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the household. The calculation of such cost shall include the monthly rent and utilities (for rental units) or monthly mortgage payment, property taxes, special assessments, insurance, and other required condominium or homeowner association fees and assessments (for owner-occupied units).

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 do not exceed 50 percent of the median income.
- c. Low-income: Households whose incomes are greater than 50 percent but do not exceed 80 percent of the median income.
- d. Moderate-income: Households whose incomes are greater than 80 percent but do not exceed 120 percent of the median income.
- e. Gap-income: Households whose incomes are greater than 120 percent but do not exceed 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".~~

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

3
4 ~~Owner occupied workforce housing: 61 percent—80 percent of median income, otherwise~~
5 ~~considered to be "low income".~~

6
7 ~~Owner occupied workforce housing: 81 percent—100 percent of median income,~~
8 ~~otherwise considered to be "moderate income".~~

9
10 ~~Owner occupied gap housing: 81 percent—150 percent of median income.~~

11
12 ~~Rental workforce housing less than 50 percent of median income, otherwise considered~~
13 ~~to be "very low income".~~

14
15 ~~Rental workforce housing from 51 percent—60 percent of median income, otherwise~~
16 ~~considered to be "low income".~~

17
18 ~~The term affordable housing is specifically intended to include affordable workforce~~
19 ~~housing.~~

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

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

32
33 # # # # # # # # # # # # # #

34 35 **2.06.00 – AFFORDABLE HOUSING DENSITY BONUSES**

36 37 **2.06.01 – Generally**

- 38
39 A. Within most of the coastal urban designated areas identified on the future land use map of
40 the Collier County GMP, a base density of four ~~(4)~~ residential dwelling units per gross
41 acre is permitted. However, the base density may be adjusted depending on the
42 characteristics of the development. One characteristic of a housing development which
43 would allow the addition of density bonuses in order to increase the density over the
44 base density is the provision of affordable housing in the development. The provision of

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1 affordable housing units may add up to ~~eight (8)~~ 12 dwelling units per gross acre to the
2 base density of four ~~(4)~~ residential dwelling units per gross acre, ~~for a total of twelve (12)~~
3 ~~residential dwelling units per gross acre~~, plus any other density bonuses available, and
4 minus any density reduction ~~for traffic congestion area that is~~ required, pursuant to the
5 ~~Collier County~~ GMP. The total eligible density must not exceed the maximum density
6 allowed pursuant to the GMP ~~a total of sixteen (16) dwelling units per gross acre, except~~
7 ~~as allowed through use of transfer of development rights, as provided for in the growth~~
8 ~~management plan~~. The program to accomplish this increase to provide affordable housing
9 is called the affordable housing density bonus (AHDB) program.

10
11 B. Within most of the Immokalee Urban area, as identified on the Immokalee area master
12 plan future land use map of the growth management plan, base densities are four or
13 six or eight residential dwelling units per gross acre. However, the base density may
14 be adjusted depending on the characteristics of the development. One characteristic of
15 a housing development that would allow the addition of density bonuses is the provision
16 of affordable housing in the development. The provision of affordable housing units
17 may add up to 12 ~~eight~~ dwelling units per gross acre to the base density ~~of four, six~~
18 ~~or eight residential dwelling units per gross acre, for a total of twelve, fourteen or~~
19 ~~sixteen residential dwelling units per gross acre~~, plus any other density bonuses
20 available. The total eligible density must not exceed the maximum allowed pursuant to the
21 GMP ~~a total of 16 dwelling units per gross acre~~.

22
23 C. Within the Rural Lands Stewardship Area Overlay of the Agricultural/Rural area, as
24 identified on the future land use map of the growth management plan, towns, villages,
25 hamlets and compact rural developments are allowed at a density range of one-half to
26 four dwelling units per gross acre. The allowed density may be adjusted depending on
27 the characteristics of the development. One characteristic of a housing development
28 that would allow the addition of density bonuses is the provision of affordable housing
29 in the development. The provision of affordable housing units may add up to eight
30 dwelling units per gross acre to the allowed density of one-half to four dwelling units
31 per gross acre, for a total of eight and one-half to twelve and one-half residential
32 dwelling units per gross acre, plus any other density bonuses available.

33
34 D. In order to qualify for the AHDB for a development, the developer must apply for and
35 obtain the AHDB from the County for a development in accordance with this section,
36 especially in accordance with the provisions of the AHDB program, including the AHDB
37 rating system, the AHDB monitoring program, and the limitations on the AHDB.

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

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1 the type of development proposed, the application may be combined with an
2 application for a planned unit development (PUD), a rezone, or a Stewardship
3 Receiving Area.
4

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

10
11 a. Zoning districts proposed by the applicant on the property and acreage of
12 each;

13
14 b. The total number of residential dwelling units in the proposed
15 development, categorized by number of bedrooms and whether the unit
16 is to be rented or owner-occupied;

17
18 c. The total number of AHDB units requested, categorized by number of
19 bedrooms and whether the unit is to be rented or owner-occupied;

20
21 d. Total number of affordable housing units proposed in the development,
22 categorized by level of income, number of bedrooms (one bedroom, two
23 bedrooms, three bedrooms, or more), and rental units and owner-
24 occupied units:

25
26 i. Gap-income households.

27
28 ii. Moderate-income households ~~(one bedroom, two bedrooms, or~~
29 ~~three bedrooms or more.~~

30
31 iii. Low-income households ~~(one bedroom, two bedrooms, or three~~
32 ~~bedrooms or more.~~

33
34 iv. Very-low-income households ~~(one bedroom, two bedrooms, or~~
35 ~~three bedrooms or more.~~

36
37 ~~Total affordable housing units (one bedroom, two bedrooms, or~~
38 ~~three bedrooms or more).~~

39
40 e. Gross density of the proposed development;

41
42 f. Whether the AHDB is requested in conjunction with an application for
43 a ~~planned unit development (PUD), an application for rezoning, SRA an~~
44 ~~application for a Stewardship Receiving Area,~~ or a conditional use
45 ~~application~~ for a Commercial Mixed-Use project as provided for within
46 LDC section 4.02.38 ~~of the LDC;~~ and

47
48 g. Any other information which would reasonably be needed to address the

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1 request for AHDB for the development pursuant to the requirements set
2 forth in this section.
3

4 3. *Determination of completeness.* After receipt of an application for AHDB, the
5 County Manger or designee ~~housing and urban improvement director~~ shall
6 determine whether the application submitted is complete. If it is determined he
7 ~~determines~~ that the application is not complete, the County Manager or designee
8 ~~housing and urban improvement director~~ shall notify the **applicant** in writing of
9 the deficiencies. The County Manager or designee ~~housing and urban~~
10 ~~improvement director~~ shall take no further steps to process the application
11 until the deficiencies have been remedied.
12

13 4. *Review and recommendation by the County Manager or designee.* After receipt
14 of a completed application for AHDB, the County Manager or designee must
15 review and evaluate the application in light of the AHDB rating system, the
16 AHDB monitoring program and the requirements of this section. The County
17 Manager or designee must coordinate with the Zoning Division development
18 ~~services~~ director or designee to schedule the AHDB application with the
19 companion application for a PUD, rezoning, SRA, or conditional use
20 ~~planned unit development or stewardship receiving area~~, and must recommend
21 to the planning commission and the BCC to deny, grant, or grant with conditions,
22 the AHDB application. The recommendation of the County Manager or designee
23 must include a report in support of recommendation.
24

25 5. *Review and recommendation by the planning commission.* Upon receipt by the
26 planning commission of the application for AHDB and the written
27 recommendation and report of the County Manager or designee, the planning
28 commission must schedule and hold a properly advertised and duly noticed
29 public hearing on the application. If the application has been submitted in
30 conjunction with an application for a PUD, rezoning, SRA, or conditional use,
31 then the hearing must be consolidated and made a part of the public hearing
32 on the respective application ~~for the PUD~~ before the planning commission.
33 ~~, and the~~ The planning commission must consider the application for AHDB in
34 conjunction with the application for the PUD, rezoning, SRA, or conditional use.
35 ~~If the application has been submitted in conjunction with an application for a~~
36 ~~rezoning, then the hearing must be consolidated and made a part of the public~~
37 ~~hearing on the application for rezoning before the planning commission, and the~~
38 ~~planning commission must consider the application for AHDB in conjunction~~
39 ~~with the application for rezoning. If the application has been submitted in~~
40 ~~conjunction with an application for a stewardship receiving area, then the hearing~~
41 ~~must be consolidated and made a part of the public hearing on the application~~
42 ~~for stewardship receiving area before the planning commission, and the~~
43 ~~planning commission must consider the application for AHDB in conjunction~~
44 ~~with the application for stewardship receiving area.~~ After the close of the
45 public hearing, the planning commission must review and evaluate the
46 application in light of the requirements of this section and the requirements for
47 a ~~rezoning,~~ PUD, rezoning, or SRA ~~stewardship receiving area,~~ or conditional
48 use, as applicable, and must recommend to the BCC that the application be

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1 denied, granted or granted with conditions.
2

- 3 6. *Review and determination by Board of County Commissioners.* Upon receipt by
4 the BCC of the application for AHDB and the written recommendation and
5 report of the County Manager or designee and recommendation of the planning
6 commission, the BCC must schedule and hold a properly advertised and duly
7 noticed public hearing on the application. If the application has been submitted
8 in conjunction with an application for a ~~planned unit development (PUD),~~
9 rezoning, SRA, or conditional use, then the hearing must be consolidated and
10 made a part of the public hearing on the respective application ~~for the planned~~
11 ~~unit development (PUD)~~ before the BCC, and the BCC must consider the
12 application for AHDB in conjunction with the application for the ~~planned unit~~
13 ~~development (PUD),~~ rezoning, SRA, or conditional use. ~~If the application has~~
14 ~~been submitted in conjunction with an application for a rezoning, then the~~
15 ~~hearing must be consolidated and made a part of the public hearing on the~~
16 ~~application for rezoning before the BCC, and the BCC must consider the~~
17 ~~application for AHDB in conjunction with the application for rezoning. If the~~
18 ~~application has been submitted in conjunction with an application for a~~
19 ~~stewardship receiving area, then the hearing must be consolidated and made~~
20 ~~a part of the public hearing on the application for stewardship receiving area~~
21 ~~before the BCC, and the BCC must consider the application for AHDB in~~
22 ~~conjunction with the application for stewardship receiving area.~~ After the close
23 of the public hearing, the BCC must review and evaluate the application in
24 light of the requirements of this section and the requirements for a PUD,
25 rezoning, SRA, or conditional use, and must deny, grant, or grant with
26 conditions, the application in accordance with the AHDB rating system and the
27 AHDB monitoring program.
28

- 29 E. The procedures to request approval of a density bonus are described in Chapter 10 of
30 this LDC, along with requirements for the developer's agreement to ensure compliance.
31

32 **2.06.02 – Purpose and Intent**

33

- 34 A. Section 2.06.00 is intended to implement and be consistent with the GMP, § 163.3161 *et*
35 *seq.* F.S., Rule 9J-5, F.A.C., and the Stipulated Settlement Agreement in DOAH Case
36 No. 89-1299 GM, by providing for moderate, low, and very low-income housing through
37 the use of density bonuses which allow an increase in the number of residential dwelling
38 units per acre allowed on property proposed for development, thereby decreasing the
39 per unit cost of land and development.
40
- 41 B. This objective is accomplished by implementing an AHDB program which consists of an
42 AHDB rating system and an AHDB monitoring program. The purpose of the AHDB
43 rating system is to provide increased residential densities to developers who guarantee
44 that a portion of their housing development will be affordable by households of gap,
45 moderate, low, or very low-income, thus expanding housing opportunities for gap,
46 moderate, low, and very low-income households throughout the county. The purpose
47 of the AHDB monitoring program is to provide assurance that the program is properly
48 implemented, monitored, and enforced, and that useful information on affordable

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1 housing may be collected.
2

3 **2.06.03 – AHDB Rating System** 4

5 A. The AHDB rating system shall be used to determine the amount of the AHDB which may
6 be granted for a development, based on household income level, type of affordable
7 housing units (owner-occupied or rental, single-family or multi-family), and percentage
8 of affordable housing units in the development. To use the AHDB rating system, Table
9 A below, shall be used. Table A shall be reviewed and updated, if necessary, on an
10 annual basis by the BCC or its designee.
11

12 ~~1. First, choose the household income level (50% of median income, 60% of
13 median income, or 80% of median income) of the affordable housing unit(s)
14 proposed in the development, and the type of affordable housing units (owner-
15 occupied or rental, single-family or multi-family, where applicable) to be
16 provided, as shown in Table A. An AHDB based on the household income
17 level is shown in Table A. Table A will indicate the maximum number of
18 residential dwelling units per gross acre that may be added to the base
19 density. These additional residential dwelling units per gross acre are the
20 maximum AHDB available to that development. Developments with
21 percentages of affordable housing units which fall in between the percentages
22 shown on Table A shall receive an AHDB equal to the lower of the 2 percentages
23 it lies between, plus 1/10 of a residential dwelling unit per gross acre for each
24 additional percentage of affordable housing units in the development. For
25 example, a development which has 24 percent of its total residential dwelling
26 units as affordable housing units, at the 80 percent MI level will receive an AHDB
27 of 2.4 residential dwelling units per gross acre for the development.
28~~

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

Product (% of MI)	<u>Maximum Allowable Density Bonus by Percent of Development Designated as Affordable Housing^{1,2,3}</u>									
	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
<u>Gap</u> (<u>>120 - ≤140</u>) ^{4,5}	1	2	3	4	5	6	7	8	n/a	n/a
<u>Moderate</u> (<u>>80 - ≤120</u>) [±]	2	4	5	6	7	8	9	10	11	12
<u>Low</u> (<u>>50 - ≤80</u>)	3	6	7	8	9	10	11	12	12	12
<u>Very Low</u> (<u>≤50</u>)	n/a	8	9	10	11	12	12	12	12	12

Product ²	Household Income (% median)	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
<u>Gap</u>	81-150% MI* **	4	2	3	4	5	6	6	6	6	n/a
<u>Moderate Workforce</u>	61-80% MI*	2	3	5	8	8	8	8	8	8	8
<u>Low</u>	51-60%	3	4	6	8	8	8	8	8	8	8
<u>Very Low</u>	50% or less MI	4	5	7	8	8	8	8	8	8	8

- 1 Total Allowable Density = Base Density + Affordable Housing Density Bonus. In no event shall the maximum gross density exceed that which is allowed pursuant to the GMP.
- 2 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.
- 3 Where more than one type of affordable housing unit (based on level of income shown above) 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 12 dwelling units per gross acre.

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1 4* Owner-occupied only

2
3 5** May only be used in conjunction with at least 20 ~~40~~% at or below 120 ~~80~~% MI

4
5 ~~Total Allowable Density = Base Density + Affordable Workforce Gap Housing Density~~
6 ~~Bonus. In no event shall the maximum gross density allowed exceed 16 units per acre.~~

- 7
8 B. The AHDB shall be available to a development only to the extent that it otherwise
9 complies and is consistent with the GMP and the land development regulations,
10 including the procedures, requirements, conditions, and criteria for "PUDs" and rezonings,
11 where applicable.
12
13 C. The minimum number of affordable housing units that shall be provided in a development
14 pursuant to this section shall be ~~ten (10)~~ percent of the total ~~affordable~~ housing units.
15
16 D. The ratio of number of bedrooms per affordable housing unit shall in general be equal to
17 the ratio of the number of bedrooms per residential unit for the entire development.
18

19 **2.06.04 - Limitations on Affordable Housing Density Bonus**

20
21 Anything to the contrary notwithstanding, the following limitations and conditions shall apply to all
22 of the AHDB for a development:

23
24 A. *Affordable housing density bonus development agreement required.* The AHDB shall
25 be available to a development only when an AHDB development agreement has been
26 entered into by the developer/ applicant and the BCC, and such agreement has been
27 approved by the county attorney and the BCC pursuant to the public hearing process
28 established in this section prior to execution. Amendments to such agreement shall be
29 processed as a regular agenda item before the BCC unless there is a companion land
30 use petition in the same manner as the original agreement. ~~The AHDB development~~
31 agreement shall include, at a minimum, the following provisions:

- 32
33 1. Legal description of the land subject to the agreement and the names of its
34 legal and equitable owners.
35
36 2. Total number of residential dwelling units in the development.
37
38 3. Minimum number of affordable housing units, categorized by level of household
39 income, type of unit (single-family or multifamily, owner-occupied or rental), and
40 number of bedrooms, required in the development.
41
42 4. Maximum number of AHDB dwelling units permitted in the development.
43
44 5. Gross residential density of the development.
45
46 6. Amount of monthly rent for rental units, or the price and conditions under which an
47 owner-occupied unit will be sold, for each type of affordable housing unit in

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1 accordance with the definition for each type of affordable housing rental unit—
2 ~~(moderate, low, and very-low-income)~~.

- 3
4 7. The foregoing notwithstanding, any rent charged for an affordable housing unit
5 rented to a low or very-low-income household family shall not exceed ~~90 percent~~
6 ~~of the rent charged for a comparable market rate dwelling in the same or similar~~
7 ~~development. Comparable market rate means the rental amount charged for the~~
8 ~~last market rate dwelling unit of comparable market rate dwelling in the same or~~
9 ~~similar development. Comparable market rate means the rental amount charged~~
10 ~~for the last market rate dwelling unit of comparable square footage, amenities, and~~
11 ~~number of bedrooms, to be rented in the same development~~ the amount published
12 by the Florida Housing Finance Corporation for Collier County adjusted by income
13 level, family size, and number of bedrooms, and updated annually.
14
- 15 8. No affordable housing unit in the development shall be rented to a tenant
16 whose household income has not been verified and certified in accordance with
17 this division as ~~a moderate, low, or very-low-income~~ household family. Such
18 verification and certification shall be the responsibility of the developer and
19 shall be submitted to the County Manager or ~~his~~ designee for approval. Tenant
20 income verification and certification shall be repeated annually to assure continued
21 eligibility.
22
- 23 9. No affordable housing unit that is to be sold, leased with option to purchase, or
24 otherwise conveyed in the development shall be sold, leased with option to
25 purchase, or otherwise conveyed to a buyer whose household income has not
26 been verified and certified in accordance with this section as a gap, moderate,
27 low, or very-low-income household family. Such verification and certification shall
28 be the responsibility of the developer and shall be submitted to the County
29 Manager or ~~his~~ designee for approval. It is the intent of this section to keep housing
30 affordable; therefore, any person who buys an affordable housing unit must agree,
31 in a lien instrument to be recorded with the Clerk of the Circuit Court of Collier
32 County, Florida, that if ~~he sells~~ the property is sold (to a non-income qualified
33 buyer, including the land and/or the unit) within 15 years after ~~the his~~ original
34 purchase at a sales price in excess of five percent per year of ~~the his~~ original
35 purchase price that he will pay to the county an amount equal to one-half of the
36 sales price in excess of five percent increase per year. The lien instrument may
37 be subordinated to a qualifying first mortgage.
38
- 39 10. For example, a person originally buys a designated affordable housing unit (a
40 house) for \$60,000.00 and sells it after five years for \$80,000.00. A five percent
41 increase per year for five years will give a value of \$76,577.00. Deducting this
42 amount from the sales price of \$80,000.00 gives a difference of \$3,423.00. The
43 seller would then owe the county \$1,711.50 (one-half of \$3,423.00). Payment
44 of this amount would release the recorded lien first owner from the recorded
45 lien against the property. Such payment shall be maintained in a segregated
46 fund, established by the county solely for affordable housing purposes, and such
47 money shall be used solely to encourage, provide for, or promote affordable
48 housing in Collier County.

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11. No affordable housing unit in any building or structure in the development shall be occupied by the developer, any person related to or affiliated with the developer, or a resident manager.
12. When the developer advertises, rents, sells or maintains the affordable housing unit, it must advertise, rent, sell, and maintain the same in a nondiscriminatory manner and make available any relevant information to any person who is interested in renting or purchasing such affordable housing unit. The developer shall agree to be responsible for payment of any real estate commissions and fees. The affordable housing units in the development shall be identified on all building plans submitted to the county and described in the application for AHDB.
13. The developer shall not disclose to persons, other than the potential tenant, buyer or lender of the particular affordable housing unit or units, which units in the development are designated as affordable housing units.
14. The square footage, construction and design of the affordable housing units shall be the same as market rate dwelling units in the development.
15. The AHDB agreement and authorized development shall be consistent with the growth management plan and land development regulations of Collier County that are in effect at the time of development. Subsequently adopted laws and policies shall apply to the AHDB agreement and the development to the extent that they are not in conflict with the number, type of affordable housing units and the amount of AHDB approved for the development.
16. The affordable housing units shall be intermixed with, and not segregated from, the market rate dwelling units in the development.
17. The conditions contained in the AHDB development agreement shall constitute covenants, restrictions, and conditions which shall run with the land and shall be binding upon the property and every person having any interest therein at any time and from time to time.
18. The AHDB development agreement shall be recorded in the official records of Collier County, Florida, subsequent to the recordation of the grant deed pursuant to which the developer acquires fee simple title to the property.
19. Each affordable housing rental unit shall be restricted to remain and be maintained as the type of affordable housing rental unit (~~moderate~~, low or very-low-income) designated in accordance with the AHDB development agreement for at least 30 ~~45~~ years from the issuance of a certificate of occupancy for such unit.
20. Each affordable housing owner-occupied unit shall be restricted to remain and be maintained as the type of affordable housing owner-occupied unit (g a p -, moderate-, low-, or very-low-income) designated in accordance with the

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AHDB development agreement for at least 15 years from the issuance of a certificate of occupancy for such unit.

21. The developer and owner of a rental ~~the~~ development shall provide on-site management to assure appropriate security, maintenance and appearance of the development and the dwelling units where these issues are a factor.

B. *Compliance with growth management plan and land development regulations.* The AHDB shall be available to a development only to the extent that it otherwise complies and is consistent with the GMP and the land development regulations, including the procedures, requirements, conditions and criteria for ~~planned unit developments (PUDs)~~ and rezonings, where applicable.

C. *Minimum number of affordable housing units.* The minimum number of affordable housing units that shall be provided in a development pursuant to this section shall be ~~ten~~ 10 percent of the total affordable housing units.

D. *Nontransferable.* The AHDB is not transferrable between developments or properties.

E. *Phasing.* In the case where a development will occur in more than one phase, the percentage of affordable housing units to which the developer has committed for the total development shall be maintained in each phase and shall be constructed as part of each phase of the development on the property. For example, if the total development's AHDB is based on the provision of ten percent of the total dwelling units as affordable housing rental units for low income households with two bedrooms per unit, then each phase must maintain that same percentage (10 ~~ten~~ percent in this case) cumulatively.

2.06.05 - Affordable Housing Density Bonus Monitoring Program

A. *Annual progress and monitoring report.* The AHDB for a development shall be subject to the AHDB monitoring program set forth in this section. The developer shall provide the County Manager or ~~his~~ designee with an annual progress and monitoring report regarding the delivery of affordable housing rental/ownership units throughout the period of their construction, rental, sale, and occupancy for each of the developer's developments which involve the AHDB in a form developed by the County Manager or ~~his~~ designee. The annual progress and monitoring report shall, at a minimum, require any information reasonably helpful to ensure compliance with this section and provide information with regard to affordable housing in Collier County. To the extent feasible, the County Manager or ~~his~~ designee shall maintain public records of all dwelling units (AHDB and affordable housing units) constructed pursuant to the AHDB program, all affordable housing units constructed pursuant to the AHDB program, occupancy statistics of such dwelling units, complaints of violations of this section which are alleged to have occurred, the disposition of all such complaints, a list of those persons who have participated as tenants or buyers in the AHDB program, and such other records and information as the County Manager or ~~his~~ designee believes may be necessary or desirable to monitor the success of the AHDB program and the degree of compliance therewith. Failure to complete and submit the monitoring report to the County Manager

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1 or ~~his~~ designee within 60 days from the due date will result in a penalty of up to \$50.00
2 per day per incident or occurrence unless a written extension not to exceed 30 days is
3 requested prior to expiration of the 60-day submission deadline.
4

5 B. *Income verification and certification.*
6

7 1. Eligibility. The determination of eligibility of gap, moderate, low, and very-low-
8 income households to rent or buy and occupy affordable housing units is the
9 central component of the AHDB monitoring program. Household income eligibility
10 is a three-step process:
11

12 (a) Submittal of an application by a buyer or tenant;
13

14 (b) Verification of household income; and
15

16 (c) Execution of an income certification.
17

18 All three shall be accomplished prior to a buyer or tenant being qualified as an
19 eligible household to rent or purchase and occupy an affordable housing unit
20 pursuant to the AHDB program. No person shall occupy an affordable housing
21 unit provided under the AHDB program prior to being qualified at the appropriate
22 level of income (gap, moderate, low or very-low-income).
23

24 ~~Eligibility. The determination of eligibility of moderate, low, and very low~~
25 ~~income families to rent or buy and occupy affordable housing units is the central~~
26 ~~component of the AHDB monitoring program. Family income eligibility is a three-~~
27 ~~step process: (1) submittal of an application by a buyer or tenant; (2) verification~~
28 ~~of family income; and (3) execution of an income certification. All three shall be~~
29 ~~accomplished prior to a buyer or tenant being qualified as an eligible family to rent~~
30 ~~or purchase and occupy an affordable housing unit pursuant to the AHDB program.~~
31 ~~No person shall occupy an affordable housing unit provided under the AHDB~~
32 ~~program prior to being qualified at the appropriate level of income (moderate, low~~
33 ~~or very low income).~~
34

35 2. The developer shall be responsible for accepting applications from buyers or
36 tenants, verifying income and obtaining the income certification for its development
37 which involves AHDB, and all forms and documentation must be provided to the
38 County Manager or ~~his~~ designee prior to qualification of the buyer or tenant as
39 a gap, moderate, low, or very-low-income household family. The County
40 Manager or ~~his~~ designee shall review all documentation provided, and may verify
41 the information provided from time to time. Prior to occupancy by a qualified
42 buyer or tenant, the developer shall provide to the County Manager or ~~his~~
43 designee, at a minimum, the application for affordable housing qualification,
44 including the income verification form and the income certification form, and the
45 purchase contract, lease, or rental agreement for that qualified buyer or tenant.
46 At a minimum, the lease shall include the name, address and telephone number
47 of the head of household and all other occupants, a description of the unit to be
48 rented, the term of the lease, the rental amount, the use of the premises, and

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1 the rights and obligations of the parties. Random inspections to verify occupancy
2 in accordance with this section may be conducted by the County Manager or ~~his~~
3 designee.
4

5 3. Application. A potential buyer or tenant shall apply to the developer, owner,
6 manager, or agent to qualify as a gap, moderate, low, or very-low-income
7 household family for the purpose of renting, or owning and occupying an
8 affordable housing ~~rental~~ unit pursuant to the AHDB program. The application for
9 affordable housing qualification shall be in a form provided by the County Manager
10 or ~~his~~ designee and may be a part of the income certification form.
11

12 4. Income verification. The County Manager or ~~his~~ designee or the developer shall
13 obtain written verification from the potential occupant (including the entire
14 household) to verify all regular sources of income to the potential tenant/owner
15 (including the entire household). The written verification form shall include, at a
16 minimum, the purpose of the verification, a statement to release information,
17 employer verification of gross annual income or rate of pay, number of hours
18 worked, frequency of pay, bonuses, tips and commissions and a signature block
19 with the date of application. ~~The verification may take the form of the most recent~~
20 ~~year's federal income tax return for the potential occupants (including the entire~~
21 ~~household), a statement to release information, tenant verification of the return,~~
22 ~~and a signature block with the date of application.~~ The verification shall be valid
23 for up to 90 days prior to occupancy. Upon expiration of the 90-day period, the
24 information may be verbally updated from the original sources for an additional
25 30 days, provided it has been documented by the person preparing the original
26 verification. After this time, a new verification form must be completed. The income
27 verification may take the form of the most recent year's filed income tax return for
28 each occupant who had filed and will occupy the affordable housing unit.
29

30 5. Income certification. Upon receipt of the application and verification of income,
31 an income certification form shall be executed by the potential buyer or tenant
32 (including the entire household) prior to sale or rental and occupancy of the
33 affordable housing unit by the owner or tenant. Income certification that the
34 potential occupant has a gap, moderate, low, or very-low-income household
35 income qualifies the potential occupant as an eligible household family to
36 buy or rent and occupy an affordable housing unit under the AHDB program. The
37 income certification shall be in a form provided by the County Manager or ~~his~~
38 designee.
39

40 6. The Developer shall be deemed in compliance with the AHDB agreement if the
41 Developer has complied with the tenant eligibility and qualification requirements of
42 the Florida Housing Finance Corporation by providing the County Community and
43 Human Services Division a copy of the annual Florida Housing Finance Corporation
44 compliance and program reports.
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2.06.06 - Violations and Enforcement

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

B. *Notice of violation.* Whenever it is determined that there is a violation of section 2.06.00, a notice of violation shall be issued and sent by the County Manager or ~~his~~ designee by certified return receipt requested U.S. mail, or hand delivery to the person or developer in violation of section 2.06.00. The notice of violation shall be in writing, shall be signed and dated by the County Manager or ~~his~~ designee or such other county personnel as may be authorized by the BCC, shall specify the violation or violations, shall state that said violation(s) shall be corrected within 10 ~~ten~~ days of the date of notice of violation, and shall state that if said violation(s) is not corrected by the specified date that civil and/or criminal enforcement may be pursued. If said violation(s) is not corrected by the specified date in the notice of violation, the County Manager or ~~his~~ designee shall issue a citation which shall state the date and time of issuance, name and address of the person in violation, date of the violation, section of these regulations, or subsequent amendments thereto, violated, name of the County Manager or ~~his~~ designee, and date and time when the violator shall appear before the code enforcement board.

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

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

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