



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. This amendment would also change the upper limit of the gap-income housing category, lowering it from 150% of median income to 140%, which is consistent with the Board's direction.

DSAC-LDR Recommendations:

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

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

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

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

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

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

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

~~Housing, gap: 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 subset:~~

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

#

2.06.00 – AFFORDABLE HOUSING DENSITY BONUSES

2.06.01 – Generally

- A. Within most of the coastal urban designated areas identified on the future land use map of the Collier County GMP, a base density of four ~~(4)~~ residential dwelling units per gross acre is permitted. However, the base density may be adjusted depending on the characteristics of the development. One characteristic of a housing development which

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

13 B. Within most of the Immokalee Urban area, as identified on the Immokalee area master
14 plan future land use map of the growth management plan, base densities are four or
15 six or eight residential dwelling units per gross acre. However, the base density may
16 be adjusted depending on the characteristics of the development. One characteristic of
17 a housing development that would allow the addition of density bonuses is the provision
18 of affordable housing in the development. The provision of affordable housing units
19 may add up to 12 ~~eight~~ dwelling units per gross acre to the base density ~~of four, six~~
20 ~~or eight residential dwelling units per gross acre, for a total of twelve, fourteen or~~
21 ~~sixteen residential dwelling units per gross acre~~, plus any other density bonuses
22 available. The total eligible density must not exceed the maximum allowed pursuant to the
23 GMP ~~a total of 16 dwelling units per gross acre~~.
24

25 C. Within the Rural Lands Stewardship Area Overlay of the Agricultural/Rural area, as
26 identified on the future land use map of the growth management plan, towns, villages,
27 hamlets and compact rural developments are allowed at a density range of one-half to
28 four dwelling units per gross acre. The allowed density may be adjusted depending on
29 the characteristics of the development. One characteristic of a housing development
30 that would allow the addition of density bonuses is the provision of affordable housing
31 in the development. The provision of affordable housing units may add up to eight
32 dwelling units per gross acre to the allowed density of one-half to four dwelling units
33 per gross acre, for a total of eight and one-half to twelve and one-half residential
34 dwelling units per gross acre, plus any other density bonuses available.
35

36 D. In order to qualify for the AHDB for a development, the developer must apply for and
37 obtain the AHDB from the County for a development in accordance with this section,
38 especially in accordance with the provisions of the AHDB program, including the AHDB
39 rating system, the AHDB monitoring program, and the limitations on the AHDB.
40

41 1. *Preapplication conference.* Prior to submitting an application for AHDB, a
42 preapplication conference may be scheduled with the County Manager or ~~his~~
43 ~~designee. If the proposed development is to include affordable housing, the~~
44 ~~housing and urban improvement director, must participate in the~~
45 ~~preapplication conference.~~ The preapplication conference provides an
46 opportunity to familiarize the applicant with the AHDB program and provides an
47 opportunity for the county staff to obtain a clear understanding of the proposed

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1 development. The AHDB rating system, the AHDB monitoring program, the
2 limitations, criteria, procedures, standard conditions, standard forms, and other
3 information will be discussed and made available to the applicant. Depending on
4 the type of development proposed, the application may be combined with an
5 application for a planned unit development (PUD), a rezone, or a Stewardship
6 Receiving Area.
7

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

- 13
- 14 a. Zoning districts proposed by the applicant on the property and acreage of
15 each;
 - 16
 - 17 b. The total number of residential dwelling units in the proposed
18 development, categorized by number of bedrooms and whether the unit
19 is to be rented or owner-occupied;
 - 20
 - 21 c. The total number of AHDB units requested, categorized by number of
22 bedrooms and whether the unit is to be rented or owner-occupied;
 - 23
 - 24 d. Total number of affordable housing units proposed in the development,
25 categorized by level of income, number of bedrooms (one bedroom, two
26 bedrooms, three bedrooms, or more), and rental units and owner-
27 occupied units:
 - 28
 - 29 i. Gap-income ~~Moderate-income~~ households (~~one bedroom, two~~
30 ~~bedrooms, or three bedrooms or more~~).
 - 31
 - 32 ii. Moderate-income ~~Low-income~~ households (~~one bedroom, two~~
33 ~~bedrooms, or three bedrooms or more~~).
 - 34
 - 35 iii. Low-income ~~Very low-income~~ households (~~one bedroom, two~~
36 ~~bedrooms, or three bedrooms or more~~).
 - 37
 - 38 iv. Very-low-income ~~Total affordable~~ housing units (~~one bedroom,~~
39 ~~two bedrooms, or three bedrooms or more~~).
 - 40
 - 41 e. Gross density of the proposed development;
 - 42
 - 43 f. Whether the AHDB is requested in conjunction with an application for
44 a ~~planned unit development (PUD), an application for~~ rezoning, SRA ~~an~~
45 ~~application for a Stewardship Receiving Area~~, or a conditional use
46 ~~application~~ for a Commercial Mixed-Use project as provided for within
47 LDC section 4.02.38 ~~of the LDC~~; and

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- 1 g. Any other information which would reasonably be needed to address the
2 request for AHDB for the development pursuant to the requirements set
3 forth in this section.
4
- 5 3. *Determination of completeness.* After receipt of an application for AHDB, the
6 County Manger or designee ~~housing and urban improvement director~~ shall
7 determine whether the application submitted is complete. If it is determined ~~he~~
8 ~~determines~~ that the application is not complete, the County Manger or designee
9 ~~housing and urban improvement director~~ shall notify the **applicant** in writing of
10 the deficiencies. The County Manger or designee ~~housing and urban~~
11 ~~improvement director~~ shall take no further steps to process the application
12 until the deficiencies have been remedied.
13
- 14 4. *Review and recommendation by the County Manager or designee.* After receipt
15 of a completed application for AHDB, the County Manager or designee must
16 review and evaluate the application in light of the AHDB rating system, the
17 AHDB monitoring program and the requirements of this section. The County
18 Manager or designee must coordinate with the Zoning Division ~~development~~
19 ~~services~~ director or designee to schedule the AHDB application with the
20 companion application for a PUD, rezoning, SRA, or conditional use
21 ~~planned unit development or stewardship receiving area~~, and must recommend
22 to the planning commission and the BCC to deny, grant, or grant with conditions,
23 the AHDB application. The recommendation of the County Manager or designee
24 must include a report in support of recommendation.
25
- 26 5. *Review and recommendation by the planning commission.* Upon receipt by the
27 planning commission of the application for AHDB and the written
28 recommendation and report of the County Manager or designee, the planning
29 commission must schedule and hold a properly advertised and duly noticed
30 public hearing on the application. If the application has been submitted in
31 conjunction with an application for a PUD, rezoning, SRA, or conditional use,
32 then the hearing must be consolidated and made a part of the public hearing
33 on the respective application ~~for the PUD~~ before the planning commission,
34 ~~and the~~ The planning commission must consider the application for AHDB in
35 conjunction with the application for the PUD, rezoning, SRA, or conditional use.
36 ~~If the application has been submitted in conjunction with an application for a~~
37 ~~rezoning, then the hearing must be consolidated and made a part of the public~~
38 ~~hearing on the application for rezoning before the planning commission, and the~~
39 ~~planning commission must consider the application for AHDB in conjunction~~
40 ~~with the application for rezoning. If the application has been submitted in~~
41 ~~conjunction with an application for a stewardship receiving area, then the hearing~~
42 ~~must be consolidated and made a part of the public hearing on the application~~
43 ~~for stewardship receiving area before the planning commission, and the~~
44 ~~planning commission must consider the application for AHDB in conjunction~~
45 ~~with the application for stewardship receiving area.~~ After the close of the
46 public hearing, the planning commission must review and evaluate the
47 application in light of the requirements of this section and the requirements for

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1 a ~~rezoning~~, PUD, rezoning, or SRA stewardship-receiving area, or conditional
2 use, as applicable, and must recommend to the BCC that the application be
3 denied, granted or granted with conditions.
4

- 5 6. *Review and determination by Board of County Commissioners.* Upon receipt by
6 the BCC of the application for AHDB and the written recommendation and
7 report of the County Manager or designee and recommendation of the planning
8 commission, the BCC must schedule and hold a properly advertised and duly
9 noticed public hearing on the application. If the application has been submitted
10 in conjunction with an application for a ~~planned unit development (PUD),~~
11 rezoning, SRA, or conditional use, then the hearing must be consolidated and
12 made a part of the public hearing on the respective application ~~for the planned~~
13 ~~unit development (PUD)~~ before the BCC, and the BCC must consider the
14 application for AHDB in conjunction with the application for the ~~planned unit~~
15 ~~development (PUD), rezoning, SRA, or conditional use~~. ~~If the application has~~
16 ~~been submitted in conjunction with an application for a rezoning, then the~~
17 ~~hearing must be consolidated and made a part of the public hearing on the~~
18 ~~application for rezoning before the BCC, and the BCC must consider the~~
19 ~~application for AHDB in conjunction with the application for rezoning. If the~~
20 ~~application has been submitted in conjunction with an application for a~~
21 ~~stewardship receiving area, then the hearing must be consolidated and made~~
22 ~~a part of the public hearing on the application for stewardship receiving area~~
23 ~~before the BCC, and the BCC must consider the application for AHDB in~~
24 ~~conjunction with the application for stewardship receiving area.~~ After the close
25 of the public hearing, the BCC must review and evaluate the application in
26 light of the requirements of this section and the requirements for a PUD,
27 rezoning, SRA, or conditional use, and must deny, grant, or grant with
28 conditions, the application in accordance with the AHDB rating system and the
29 AHDB monitoring program.
30

- 31 E. The procedures to request approval of a density bonus are described in Chapter 10 of
32 this LDC, along with requirements for the developer's agreement to ensure compliance.
33

34 2.06.02 – Purpose and Intent

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

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1 moderate, low, and very low income households throughout the county. The purpose
2 of the AHDB monitoring program is to provide assurance that the program is properly
3 implemented, monitored, and enforced, and that useful information on affordable
4 housing may be collected.
5

6 2.06.03 – AHDB Rating System 7

8 A. The AHDB rating system shall be used to determine the amount of the AHDB which may
9 be granted for a development, based on household income level, type of affordable
10 housing units (owner-occupied or rental, single-family or multi-family), and percentage
11 of affordable housing units in the development. To use the AHDB rating system, Table
12 A below, shall be reviewed and updated, if necessary, on an
13 annual basis by the BCC or its designee.
14

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

31
32 ~~2. Where more than 1 type of affordable housing unit (based on level of income
33 shown in Table A) is proposed for a development, the AHDB for each type shall
34 be calculated separately. After the AHDB calculations for each type of
35 affordable housing unit have been completed, the AHDB for each type of unit
36 shall be added to those for the other type(s) to determine the maximum
37 AHDB available for the development. In no event shall the AHDB exceed eight
38 (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 Housing¹~~

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}	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>n/a</u>	<u>n/a</u>
<u>Moderate</u> (<u>>80 - ≤120</u>) ⁴	<u>2</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
<u>Low</u> (<u>>50 - ≤80</u>)	<u>3</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>12</u>	<u>12</u>
<u>Very-Low</u> (<u>≤50</u>)	<u>n/a</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>12</u>	<u>12</u>	<u>12</u>	<u>12</u>

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

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

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for the development. In no event shall the AHDB exceed 12 dwelling units per gross acre.

4* Owner-occupied only

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

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

- B. 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 "PUDs" and rezonings, where applicable.
- C. 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. The ratio of number of bedrooms per affordable housing unit shall in general be equal to the ratio of the number of bedrooms per residential unit for the entire development.

2.06.04 - Limitations on Affordable Housing Density Bonus

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

- A. *Affordable housing density bonus development agreement required.* The AHDB shall be available to a development only when an AHDB development agreement has been entered into by the developer/ applicant and the BCC, and such agreement has been approved by the county attorney and the BCC pursuant to the public hearing process established in this section prior to execution. Amendments to such agreement shall be processed as a regular agenda item before the BCC unless there is a companion land use petition ~~in the same manner as the original agreement~~. The AHDB development agreement shall include, at a minimum, the following provisions:
 - 1. Legal description of the land subject to the agreement and the names of its legal and equitable owners.
 - 2. Total number of residential dwelling units in the development.
 - 3. Minimum number of affordable housing units, categorized by level of household income, type of unit (single-family or multifamily, owner-occupied or rental), and number of bedrooms, required in the development.
 - 4. Maximum number of AHDB dwelling units permitted in the development.
 - 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—~~(moderate, low-, and very-low-income)~~.
7. The foregoing notwithstanding, any rent charged for an affordable housing unit rented to a low- or very-low-income 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-, or very-low-income~~ 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-, moderate-, low-, or very-low-income~~ 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 is sold (to a non-income qualified buyer, including the land and/or the unit) within 15 years after ~~the his~~ original purchase at a sales price in excess of five percent per year of ~~the 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. Deducting 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 recorded lien first owner ~~from the recorded~~

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

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1 income) designated in accordance with the AHDB development agreement for
2 at least 30 ~~45~~ years from the issuance of a certificate of occupancy for such unit.

3
4 20. Each affordable housing owner-occupied unit shall be restricted to remain and be
5 maintained as the type of affordable housing owner-occupied unit (g a p - ,
6 m o d e r a t e - , low-, or very-low-income) designated in accordance with the
7 AHDB development agreement for at least 15 years from the issuance of a
8 certificate of occupancy for such unit.

9
10 21. The developer and owner of a rental ~~the~~ development shall provide on-site
11 management to assure appropriate security, maintenance and appearance of the
12 development and the dwelling units where these issues are a factor.

13
14 B. *Compliance with growth management plan and land development regulations.* The AHDB
15 shall be available to a development only to the extent that it otherwise complies and is
16 consistent with the GMP and the land development regulations, including the procedures,
17 requirements, conditions and criteria for ~~planned unit developments (PUDs)~~ and
18 rezonings, where applicable.

19
20 C. *Minimum number of affordable housing units.* The minimum number of affordable
21 housing units that shall be provided in a development pursuant to this section shall be
22 ~~ten~~ 10 percent of the total ~~affordable~~ housing units.

23
24 D. *Nontransferable.* The AHDB is not transferrable between developments or properties.

25
26 E. *Phasing.* In the case where a development will occur in more than one phase, the
27 percentage of affordable housing units to which the developer has committed for the
28 total development shall be maintained in each phase and shall be constructed as
29 part of each phase of the development on the property. For example, if the total
30 development's AHDB is based on the provision of ten percent of the total dwelling units
31 as affordable housing rental units for low-income households with two bedrooms per
32 unit, then each phase must maintain that same percentage (10 ~~ten~~ percent in this case)
33 cumulatively.

34 35 **2.06.05 - Affordable Housing Density Bonus Monitoring Program**

36
37 A. *Annual progress and monitoring report.* The AHDB for a development shall be subject to
38 the AHDB monitoring program set forth in this section. The developer shall provide the
39 County Manager or ~~his~~ designee with an annual progress and monitoring report regarding
40 the delivery of affordable housing rental/ownership units throughout the period of their
41 construction, rental, sale, and occupancy for each of the developer's developments which
42 involve the AHDB in a form developed by the County Manager or ~~his~~ designee. The
43 annual progress and monitoring report shall, at a minimum, require any information
44 reasonably helpful to ensure compliance with this section and provide information with
45 regard to affordable housing in Collier County. To the extent feasible, the County
46 Manager or ~~his~~ designee shall maintain public records of all dwelling units (AHDB and
47 affordable housing units) constructed pursuant to the AHDB program, all affordable

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1 housing units constructed pursuant to the AHDB program, occupancy statistics of such
2 dwelling units, complaints of violations of this section which are alleged to have
3 occurred, the disposition of all such complaints, a list of those persons who have
4 participated as tenants or buyers in the AHDB program, and such other records and
5 information as the County Manager or ~~his~~ designee believes may be necessary or
6 desirable to monitor the success of the AHDB program and the degree of compliance
7 therewith. Failure to complete and submit the monitoring report to the County Manager
8 or ~~his~~ designee within 60 days from the due date will result in a penalty of up to \$50.00
9 per day per incident or occurrence unless a written extension not to exceed 30 days is
10 requested prior to expiration of the 60-day submission deadline.

11
12 B. *Income verification and certification.*

13
14 1. Eligibility. The determination of eligibility of gap-, moderate-, low-, and very-low-
15 income households to rent or buy and occupy affordable housing units is the
16 central component of the AHDB monitoring program. Household income eligibility
17 is a three-step process:

18
19 (a) Submittal of an application by a buyer or tenant;

20
21 (b) Verification of household income; and

22
23 (c) Execution of an income certification.

24
25 All three shall be accomplished prior to a buyer or tenant being qualified as an
26 eligible household to rent or purchase and occupy an affordable housing unit
27 pursuant to the AHDB program. No person shall occupy an affordable housing
28 unit provided under the AHDB program prior to being qualified at the appropriate
29 level of income (gap-, moderate-, low-, or very-low-income).

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

41
42 2. The developer shall be responsible for accepting applications from buyers or
43 tenants, verifying income and obtaining the income certification for its development
44 which involves AHDB, and all forms and documentation must be provided to the
45 County Manager or ~~his~~ designee prior to qualification of the buyer or tenant as
46 a gap-, moderate-, low-, or very-low-income household family. The County
47 Manager or ~~his~~ designee shall review all documentation provided, and may verify

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1 the information provided from time to time. Prior to occupancy by a qualified
2 buyer or tenant, the developer shall provide to the County Manager or ~~his~~
3 designee, at a minimum, the application for affordable housing qualification,
4 including the income verification form and the income certification form, and the
5 purchase contract, lease, or rental agreement for that qualified buyer or tenant.
6 At a minimum, the lease shall include the name, address and telephone number
7 of the head of household and all other occupants, a description of the unit to be
8 rented, the term of the lease, the rental amount, the use of the premises, and
9 the rights and obligations of the parties. Random inspections to verify occupancy
10 in accordance with this section may be conducted by the County Manager or ~~his~~
11 designee.
12

- 13 3. Application. A potential buyer or tenant shall apply to the developer, owner,
14 manager, or agent to qualify as a gap-, moderate-, low-, or very-low-income
15 household family for the purpose of renting, or owning and occupying an
16 affordable housing ~~rental~~ unit pursuant to the AHDB program. The application for
17 affordable housing qualification shall be in a form provided by the County Manager
18 or ~~his~~ designee and may be a part of the income certification form.
19

- 20 4. Income verification. The County Manager or ~~his~~ designee or the developer shall
21 obtain written verification from the potential occupant (including the entire
22 household) to verify all regular sources of income to the potential tenant/owner
23 (including the entire household). The written verification form shall include, at a
24 minimum, the purpose of the verification, a statement to release information,
25 employer verification of gross annual income or rate of pay, number of hours
26 worked, frequency of pay, bonuses, tips and commissions and a signature block
27 with the date of application. ~~The verification may take the form of the most recent~~
28 ~~year's federal income tax return for the potential occupants (including the entire~~
29 ~~household), a statement to release information, tenant verification of the return,~~
30 ~~and a signature block with the date of application.~~ The verification shall be valid
31 for up to 90 days prior to occupancy. Upon expiration of the 90-day period, the
32 information may be verbally updated from the original sources for an additional
33 30 days, provided it has been documented by the person preparing the original
34 verification. After this time, a new verification form must be completed. The income
35 verification may take the form of the most recent year's filed income tax return for
36 each occupant who had filed and will occupy the affordable housing unit.
37

- 38 5. Income certification. Upon receipt of the application and verification of income,
39 an income certification form shall be executed by the potential buyer or tenant
40 (including the entire household) prior to sale or rental and occupancy of the
41 affordable housing unit by the owner or tenant. Income certification that the
42 potential occupant has a gap-, moderate-, low-, or very-low-income household
43 income qualifies the potential occupant as an eligible household family to
44 buy or rent and occupy an affordable housing unit under the AHDB program. The
45 income certification shall be in a form provided by the County Manager or ~~his~~
46 designee.
47

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1 6. The Developer shall be deemed in compliance with the AHDB agreement if the
2 Developer has complied with the tenant eligibility and qualification requirements of
3 the Florida Housing Finance Corporation by providing the County Community and
4 Human Services Division a copy of the annual Florida Housing Finance Corporation
5 compliance and program reports.

2.06.06 - Violations and Enforcement

- 6
7
8
9 A. *Violations.* It is a violation of section 2.06.00 to rent, sell or occupy, or attempt to rent, sell
10 or occupy, an affordable housing ~~rental~~ unit provided under the AHDB program except
11 as specifically permitted by the terms of section 2.06.00, or to knowingly give false or
12 misleading information with respect to any information required or requested by the
13 County Manager or ~~his~~ designee or by other persons pursuant to the authority which is
14 delegated to them by section 2.06.00.
15
16 B. *Notice of violation.* Whenever it is determined that there is a violation of section 2.06.00,
17 a notice of violation shall be issued and sent by the County Manager or ~~his~~ designee by
18 certified return receipt requested U.S. mail, or hand delivery to the person or developer
19 in violation of section 2.06.00. The notice of violation shall be in writing, shall be signed
20 and dated by the County Manager or ~~his~~ designee or such other county personnel
21 as may be authorized by the BCC, shall specify the violation or violations, shall state
22 that said violation(s) shall be corrected within 10 ~~ten~~ days of the date of notice of
23 violation, and shall state that if said violation(s) is not corrected by the specified date that
24 civil and/or criminal enforcement may be pursued. If said violation(s) is not corrected by
25 the specified date in the notice of violation, the County Manager or ~~his~~ designee shall
26 issue a citation which shall state the date and time of issuance, name and address
27 of the person in violation, date of the violation, section of these regulations, or
28 subsequent amendments thereto, violated, name of the County Manager or ~~his~~
29 designee, and date and time when the violator shall appear before the code enforcement
30 board.
31
32 C. *Criminal enforcement.* Any person who violates any provision of this section shall, upon
33 conviction, be punished by a fine not to exceed \$500.00 per violation or by imprisonment
34 in the county jail for a term not to exceed 60 days, or by both, pursuant to the provisions
35 of F.S. § 125.69. Such person also shall pay all costs, including reasonable
36 attorney's fees, including those incurred on appeal, involved in the case. Each day
37 such violation continues, and each violation, shall be considered a separate offense.
38
39 D. *Civil enforcement.* In addition to any criminal penalties which may be imposed pursuant
40 to section 2.06.06 C. above, Collier County and the County Manager or ~~his~~ designee
41 shall have full power to enforce the terms of this section and any AHDB development
42 agreements, rezoning conditions or stipulations, and planned unit development (PUD)
43 conditions and stipulations pursuant to this section and the rights, privileges and
44 conditions described herein, by action at law or equity. In the event that it is determined
45 that a violation has occurred and has not or will not be corrected within 60 days, the
46 certificate of occupancy for all AHDB units within the development shall be withdrawn and

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1 the sanctions or penalties provided in the AHDB development agreement shall be
2 pursued to the fullest extent allowed by law.

3
4 # # # # # # # # # # # # #

EXHIBIT A – EXPLANATION OF PROPOSED CHANGES

LDC SECTION	DESCRIPTION
1.08.02	<p>Simplified the definition so that the terminology and the varying income levels are consistent with Florida Statutes and federal guidelines. The upper limit of the gap-income housing category would be lowered from 150% of median income to 140%, consistent with the Board’s direction. The opening paragraph specifically includes assessment and fees, which were at the request of the Board of County Commissioners (Board) from their hearing on February 27, 2018. Staff further clarified the definition to differentiate between rental and owner-occupied units. The opening paragraph was divided into two sentences too improve readability at the recommendation of the Development Services Advisory Committee – Land Development Review Subcommittee (DSAC-LDR).</p>
2.06.01	<p>Clarified, corrected, or abbreviated various terms, grammar, or processes throughout this section, including deleting gender-specific terminology from the LDC. With respect to the total allowable dwelling units per acre, the DSAC-LDR recommended eliminating a specific number (of dwelling units per acre), to instead indicate that the maximum allowable density should be based upon that which is allowed by the Growth Management Plan (GMP).</p> <p>Increased the maximum allowable density bonuses in accordance with the recommendations of the Community Housing Plan (CHP) that were accepted by the Board of Commissioners on February 27, 2018.</p> <p>Eliminated references to specific job titles and processes that are subject to change administratively and were deemed by staff to serve little value in the Land Development Code (LDC).</p> <p>Eliminated repeating terms.</p> <p>Included <i>gap-income</i> household to include relevant income categories.</p>
2.06.02	<p>Updated the provisions to include relevant income categories.</p>
2.06.03	<p>Eliminated existing language that was deemed by staff to be an administrative process or procedure that is unnecessary to be included in the LDC.</p> <p>Clarified, reorganized, corrected, or abbreviated various terms, grammar, or provisions throughout this section.</p> <p>Increased the maximum allowable density bonuses in accordance with the recommendations of the Community Housing Plan (CHP) that were accepted by the Board of Commissioners on February 27, 2018.</p> <p>Proposing a new table that will reflect the maximum allowable density bonus.</p> <p>Increasing the minimum percentage of required moderate-, low-, or very-low-income units needed to qualify for the density bonus for <i>gap-income</i> housing.</p>
2.06.04	<p>Clarified the appropriate procedure for presenting an affordable housing agreement before the Board.</p> <p>Updated the provisions to include relevant income categories.</p> <p>Included the Florida Housing Finance Corporation as the authority by which to use as a baseline for determining the maximum allowable rental prices.</p>

EXHIBIT A – EXPLANATION OF PROPOSED CHANGES

	<p>Updated the provisions to extend the periods of time for the AHDB development agreement for rental units.</p> <p>Clarified, corrected, or abbreviated various terms, grammar, or processes throughout this section including deleting gender-specific terminology from the LDC.</p> <p>Updated the provisions to differentiate between rental and owner-occupied units.</p>
2.06.05	<p>Updated the provisions to differentiate between rental and owner-occupied units.</p> <p>Re-organized, clarified, or corrected various terms or grammar throughout this section, including deleting gender-specific terminology from the LDC.</p> <p>Clarified the provisions regarding income verification in accordance with the recommendation from the DSAC-LDR.</p> <p>Updated the provisions to include relevant income categories.</p> <p>Included tenant eligibility and qualification requirements to be compliant with the requirements of the Florida Housing Finance Corporation.</p>
2.06.06	<p>Updated text to avoid having gender-specific terminology in the LDC.</p> <p>Corrected grammar.</p> <p>Deleted the term <i>rental</i> because violations are not relegated to just rental units.</p>