

ORDINANCE NO. 19 – 02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NUMBER 04-41, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE LAND REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, TO MAKE CHANGES CONSISTENT WITH BOARD DIRECTION, INCLUDING REVISING THE AFFORDABLE HOUSING DEFINITION, UPDATING THE TERMINOLOGY AND INCOME LEVELS ASSOCIATED WITH AFFORDABLE HOUSING CATEGORIES, AND INCREASING THE MAXIMUM AFFORDABLE DENSITY BONUS FROM 8 TO 12 DWELLING UNITS PER ACRE, BY PROVIDING FOR: SECTION ONE, RECITALS; SECTION TWO, FINDINGS OF FACT; SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, MORE SPECIFICALLY AMENDING THE FOLLOWING: CHAPTER ONE – GENERAL PROVISIONS, INCLUDING SECTION 1.08.02 DEFINITIONS; CHAPTER TWO – ZONING DISTRICTS AND USES, INCLUDING SECTION 2.06.01 GENERALLY, SECTION 2.06.02 PURPOSE AND INTENT, SECTION 2.06.03 AHDB RATING SYSTEM, SECTION 2.06.04 LIMITATIONS ON AFFORDABLE HOUSING DENSITY BONUS, SECTION 2.06.05 AFFORDABLE HOUSING DENSITY BONUS MONITORING PROGRAM, AND SECTION 2.06.06 VIOLATIONS AND ENFORCEMENT; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE. [LDCA-PL20180002172]

Recitals

WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code (hereinafter LDC), which was subsequently amended; and

WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and

WHEREAS, on March 18, 1997, the Board adopted Resolution 97-177 establishing local requirements and procedures for amending the LDC; and

WHEREAS, all requirements of Resolution 97-177 have been met; and

WHEREAS, the Collier County Planning Commission, sitting as the land planning agency, did hold an advertised public hearing on November 1, 2018, and reviewed the proposed amendments for consistency with the Comprehensive Plan and did recommend approval; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold an advertised public hearing on February 12, 2019, and did take action concerning these amendments to the LDC; and

WHEREAS, the subject amendments to the LDC are hereby determined by this Board to be consistent with and to implement the Collier County Growth Management Plan as required by Subsections 163.3194 (1) and 163.3202 (1), Florida Statutes; and

WHEREAS, this ordinance is adopted in compliance with and pursuant to the Community Planning Act (F.S. § 163.3161 *et seq.*), and F.S. § 125.01(1)(t) and (1)(w); and

WHEREAS, this ordinance is adopted pursuant to the constitutional and home rule powers of Fla. Const. Art. VIII, § 1(g); and

WHEREAS, all applicable substantive and procedural requirements of the law have otherwise been met.

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

SECTION ONE: RECITALS

The foregoing Recitals are true and correct and incorporated by reference herein as if fully set forth.

SECTION TWO: FINDINGS OF FACT

The Board of Commissioners of Collier County, Florida, hereby makes the following findings of fact:

1. Collier County, pursuant to § 163.3161, *et seq.*, F.S., the Florida Community Planning Act (herein after the "Act"), is required to prepare and adopt a comprehensive plan.

2. After adoption of the Comprehensive Plan, the Act and in particular § 163.3202(1), F.S., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

3. Section 163.3201, F.S., provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on, be related to, and be a means of implementation for, the adopted comprehensive plan.

4. Section 163.3194(1)(b), F.S., requires that all land development regulations enacted or amended by Collier County be consistent with the adopted comprehensive plan, or element or portion thereof, and any land regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent.

5. Section 163.3202(3), F.S., states that the Act shall be construed to encourage the use of innovative land development regulations.

6. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan (hereinafter the "Growth Management Plan" or "GMP") as its comprehensive plan pursuant to the requirements of § 163.3161 *et seq.*, F.S.

7. Section 163.3194(1)(a), F.S., mandates that after a comprehensive plan, or element or portion thereof, has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such comprehensive plan or element shall be consistent with such comprehensive plan or element as adopted.

8. Pursuant to § 163.3194(3)(a), F.S., a development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities, or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

9. Section 163.3194(3)(b), F.S., states that a development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities, or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

10. On October 30, 1991, Collier County adopted the Collier County Land Development Code, which became effective on November 13, 1991. The Land Development Code adopted in Ordinance 91-102 was recodified and superseded by Ordinance 04-41.

11. Collier County finds that the Land Development Code is intended and necessary to preserve and enhance the present advantages that exist in Collier County; to encourage the most appropriate use of land, water and resources consistent with the public interest; to overcome present handicaps; and to deal effectively with future problems that may result from the use and development of land within the total unincorporated area of Collier County and it is intended that this Land Development Code preserve, promote, protect and improve the public health, safety, comfort, good order, appearance, convenience and general welfare of Collier County; to prevent the overcrowding of land and avoid the undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; to conserve, develop, utilize and protect natural resources within the jurisdiction of Collier County; to protect human, environmental, social and economic resources; and to maintain through orderly growth and development, the character and stability of present and future land uses and development in Collier County.

12. It is the intent of the Board of County Commissioners of Collier County to implement the Land Development Code in accordance with the provisions of the Collier County Comprehensive Plan, Chapter 125, Fla. Stat., and Chapter 163, Fla. Stat., and through these amendments to the Code.

SECTION THREE: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

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SUBSECTION 3.A. AMENDMENTS TO SECTION 1.08.02 DEFINITIONS

Section 1.08.02 Definitions, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

1.08.02 Definitions

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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, for those households within the affordable housing income range. 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. Very-low-income: Households whose incomes do not exceed 50 percent of the median income.
- b. Low-income: Households whose incomes are greater than 50 percent but do not exceed 80 percent of the median income.
- c. Moderate-income: Households whose incomes are greater than 80 percent but do not exceed 120 percent of the median income.
- d. 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.

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

within the Naples Metropolitan Statistical Area (MSA) (See section 2.05.02), specifically including the following subsets:

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

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

~~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.~~

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SUBSECTION 3.B. AMENDMENTS TO SECTION 2.06.01 GENERALLY

Section 2.06.01 Generally, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

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 would allow the addition of density bonuses in order to increase the density over the base density is the provision of affordable housing in the development. The provision of affordable housing units may add up to ~~eight (8)~~ 12 dwelling units per gross acre to the base density of four ~~(4)~~ residential dwelling units per gross acre, ~~for a total of twelve (12) residential dwelling units per gross acre,~~ plus any other density bonuses available, and minus any density reduction ~~for traffic congestion area that is required,~~ pursuant to the Collier County GMP. The total eligible density must not exceed the maximum density allowed pursuant to the GMP ~~a total of sixteen (16) dwelling units per gross acre, except as allowed through use of transfer of development rights, as provided for in the growth management plan.~~ The program to accomplish this increase to provide affordable housing is called the affordable housing density bonus (ADHB) program.
- B. Within most of the Immokalee Urban area, as identified on the Immokalee area master plan future land use map of the growth management plan, base densities are four or six or eight residential dwelling units per gross acre. However, the base density may be adjusted depending on the characteristics of the development. One characteristic of a housing development that would allow the addition of density bonuses is the provision

of affordable housing in the development. The provision of affordable housing units may add up to 12 ~~eight~~ dwelling units per gross acre to the base density of ~~four, six or eight residential dwelling units per gross acre, for a total of twelve, fourteen or sixteen residential dwelling units per gross acre,~~ plus any other density bonuses available. The total eligible density must not exceed the maximum allowed pursuant to the GMP ~~a total of 16 dwelling units per gross acre.~~

- C. Within the Rural Lands Stewardship Area Overlay of the Agricultural/Rural area, as identified on the future land use map of the growth management plan, towns, villages, hamlets and compact rural developments are allowed at a density range of one-half to four dwelling units per gross acre. The allowed density may be adjusted depending on the characteristics of the development. One characteristic of a housing development that would allow the addition of density bonuses is the provision of affordable housing in the development. The provision of affordable housing units may add up to eight dwelling units per gross acre to the allowed density of one-half to four dwelling units per gross acre, for a total of eight and one-half to twelve and one-half residential dwelling units per gross acre, plus any other density bonuses available.
- D. In order to qualify for the AHDB for a development, the developer must apply for and obtain the AHDB from the County for a development in accordance with this section, especially in accordance with the provisions of the AHDB program, including the AHDB rating system, the AHDB monitoring program, and the limitations on the AHDB.
1. *Preapplication conference.* Prior to submitting an application for AHDB, a preapplication conference may be scheduled with the County Manager or his designee. ~~If the proposed development is to include affordable housing, the housing and urban improvement director, must participate in the preapplication conference.~~ The preapplication conference provides an opportunity to familiarize the applicant with the AHDB program and provides an opportunity for the county staff to obtain a clear understanding of the proposed development. The AHDB rating system, the AHDB monitoring program, the limitations, criteria, procedures, standard conditions, standard forms, and other information will be discussed and made available to the applicant. Depending on

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

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

- a. Zoning districts proposed by the applicant on the property and acreage of each;
- b. The total number of residential dwelling units in the proposed development, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
- c. The total number of AHDB units requested, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
- d. Total number of affordable housing units proposed in the development, categorized by level of income, number of bedrooms (one bedroom, two bedrooms, three bedrooms, or more), and rental units and owner-occupied units:
 - i. Gap-income ~~Moderate-income~~ households (~~one bedroom, two bedrooms, or three bedrooms or more~~).
 - ii. Moderate-income ~~Low-income~~ households (~~one bedroom, two bedrooms, or three bedrooms or more~~).
 - iii. Low-income ~~Very-low income~~ households (~~one bedroom, two bedrooms, or three bedrooms or more~~).

- iv. Very-low-income Total affordable housing units (~~one bedroom, two bedrooms, or three bedrooms or more~~).
 - e. Gross density of the proposed development;
 - f. Whether the AHDB is requested in conjunction with an application for a ~~planned unit development (PUD), an application for rezoning, SRA an application for a Stewardship Receiving Area,~~ or a conditional use application for a Commercial Mixed-Use project as provided for within LDC section 4.02.38 of the LDC; and
 - g. Any other information which would reasonably be needed to address the request for AHDB for the development pursuant to the requirements set forth in this section.
3. *Determination of completeness.* After receipt of an application for AHDB, the County Manager or designee ~~housing and urban improvement director~~ shall determine whether the application submitted is complete. If it is determined ~~he determines~~ that the application is not complete, the County Manager or designee ~~housing and urban improvement director~~ shall notify the applicant in writing of the deficiencies. The County Manager or designee ~~housing and urban improvement director~~ shall take no further steps to process the application until the deficiencies have been remedied.
4. *Review and recommendation by the County Manager or designee.* After receipt of a completed application for AHDB, the County Manager or designee must review and evaluate the application in light of the AHDB rating system, the AHDB monitoring program and the requirements of this section. The County Manager or designee must coordinate with the Zoning Division ~~development services director~~ or designee to schedule the AHDB application with the companion application for a PUD, rezoning, SRA, or conditional use ~~planned unit development or stewardship receiving area~~, and must recommend to the planning commission and the BCC to deny, grant, or grant with conditions,

the AHDB application. The recommendation of the County Manager or designee must include a report in support of recommendation.

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

6. *Review and determination by Board of County Commissioners.* Upon receipt by the BCC of the application for AHDB and the written recommendation and report of the County Manager or designee and recommendation of the planning commission, the BCC must schedule and hold a properly advertised and duly

noticed public hearing on the application. If the application has been submitted in conjunction with an application for a ~~planned unit development (PUD), rezoning, SRA, or conditional use,~~ then the hearing must be consolidated and made a part of the public hearing on the respective application for the ~~planned unit development (PUD)~~ before the BCC, and the BCC must consider the application for AHDB in conjunction with the application for the ~~planned unit development (PUD), rezoning, SRA, or conditional use.~~ If the application has been submitted in conjunction with an application for a rezoning, then the hearing must be consolidated and made a part of the public hearing on the application for rezoning before the BCC, and the BCC must consider the application for AHDB in conjunction with the application for rezoning. If the application has been submitted in conjunction with an application for a stewardship receiving area, then the hearing must be consolidated and made a part of the public hearing on the application for stewardship receiving area before the BCC, and the BCC must consider the application for AHDB in conjunction with the application for stewardship receiving area. After the close of the public hearing, the BCC must review and evaluate the application in light of the requirements of this section and the requirements for a PUD, rezoning, SRA, or conditional use, and must deny, grant, or grant with conditions, the application in accordance with the AHDB rating system and the AHDB monitoring program.

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

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SUBSECTION 3.C. AMENDMENTS TO SECTION 2.06.02 PURPOSE AND INTENT

Section 2.06.02 Purpose and Intent, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.06.02 Purpose and Intent

- A. Section 2.06.00 is intended to implement and be consistent with the GMP, § 163.3161 *et seq.* F.S, Rule 9J-5, F.A.C., and the Stipulated Settlement Agreement in DOAH Case No. 89-1299 GM, by providing for moderate-, low-, and very-low-income housing through the use of density bonuses which allow an increase in the number of residential dwelling units per acre allowed on property proposed for development, thereby decreasing the per unit cost of land and development.

- B. This objective is accomplished by implementing an AHDB program which consists of an AHDB rating system and an AHDB monitoring program. The purpose of the AHDB rating system is to provide increased residential densities to developers who guarantee that a portion of their housing development will be affordable by households of gap-, moderate-, low-, or very-low-income, thus expanding housing opportunities for gap-, moderate-, low-, and very-low-income households throughout the county. The purpose of the AHDB monitoring program is to provide assurance that the program is properly implemented, monitored, and enforced, and that useful information on affordable housing may be collected.

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SUBSECTION 3.D. AMENDMENTS TO SECTION 2.06.03 AHDB RATING SYSTEM

Section 2.06.03 AHDB Rating System, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.06.03 AHDB Rating System

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

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

~~2. Where more than 1 type of affordable housing unit (based on level of income shown in Table A) is proposed for a development, the AHDB for each type shall be~~

calculated separately. After the AHDB calculations for each type of affordable housing unit have been completed, the AHDB for each type of unit shall be added to those for the other type(s) to determine the maximum AHDB available for the development. In no event shall the AHDB exceed eight (8) dwelling units per gross acre.

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

Maximum Allowable Density Bonus by Percent of Development Designated as Affordable-Workforce-Gap Housing											
<i>Product</i>	<i>Household Income (% median)</i>	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
Gap	81—150% MI* **	1	2	3	4	5	6	6	6	6	n/a
Workforce	61—80% MI*	2	3	5	8	8	8	8	8	8	8
Low	51—60% MI	3	4	6	8	8	8	8	8	8	8
Very Low	50% or less MI	4	5	7	8	8	8	8	8	8	8

<u>Maximum Allowable Density Bonus by Percent of Development Designated as Affordable Housing^{1, 2, 3}</u>										
<u>Product</u> <u>(% of MI)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>	<u>40%</u>	<u>50%</u>	<u>60%</u>	<u>70%</u>	<u>80%</u>	<u>90%</u>	<u>100%</u>
<u>Gap</u> <u>(>120 - ≤140)^{4,5}</u>	<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)⁴</u>	<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>7</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>

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.

^{4*} Owner-occupied only

^{5**} May only be used in conjunction with at least 20 40% at or below 120 80%
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~~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.

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SUBSECTION 3.E. AMENDMENTS TO SECTION 2.06.04 LIMITATIONS ON AFFORDABLE HOUSING DENSITY BONUS

Section 2.06.04 Limitations on Affordable Housing Density Bonus, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

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.
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 ~~45~~ 30 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 lien against the property~~. Such payment shall be maintained in a segregated fund, established by the county solely for affordable housing purposes, and such money shall be used solely to encourage, provide for, or promote affordable housing in Collier County.

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 (gap-, moderate-, low-, or very-low-income) designated in accordance with the AHDB development agreement for at least 30 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.

* * * * *

SUBSECTION 3.F. AMENDMENTS TO SECTION 2.06.05 AFFORDABLE HOUSING DENSITY BONUS MONITORING PROGRAM

Section 2.06.05 Affordable Housing Density Bonus Monitoring Program, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

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

B. *Income verification and certification.*

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

- (a) Submittal of an application by a buyer or tenant;
- (b) Verification of household income and assets; and
- (c) Execution of an income certification.

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

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

2. The developer shall be responsible for accepting applications from buyers or tenants, verifying income and obtaining the income certification for its development which involves AHDB, and all forms and documentation must be provided to the County Manager or his designee prior to qualification of the buyer or tenant as a gap, moderate, low, or very-low-income household family. The County Manager or his designee shall review all documentation provided, and may verify the information provided from time to time. Prior to occupancy by a qualified buyer or tenant, the developer shall provide to the County Manager or his designee, at a minimum, the application for affordable housing qualification, including the income verification form and the income certification form, and the purchase contract, lease, or rental agreement for that qualified buyer or tenant. At a minimum, the lease shall include the name, address and telephone number of the head of household and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties. Random inspections to verify occupancy in accordance with this section may be conducted by the County Manager or his designee.

3. Application. A potential buyer or tenant shall apply to the developer, owner, manager, or agent to qualify as a gap, moderate, low, or very-low-income household family for the purpose of renting, or owning and occupying an affordable housing ~~rental~~ unit pursuant to the AHDB program. The application for

affordable housing qualification shall be in a form provided by the County Manager or his designee and may be a part of the income certification form.

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

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

6. The Developer shall be deemed in compliance with the AHDB agreement if the Developer has complied with the tenant eligibility and qualification requirements of

the Florida Housing Finance Corporation by providing the County Community and Human Services Division a copy of the annual Florida Housing Finance Corporation compliance and program reports.

* * * * *

SUBSECTION 3.G. AMENDMENTS TO SECTION 2.06.06 VIOLATIONS AND ENFORCEMENT

Section 2.06.06 Violations and Enforcement, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

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.

* * * * *

SECTION FOUR: CONFLICT AND SEVERABILITY

In the event that any provisions of this ordinance should result in an unresolved conflict with the provisions of the Land Development Code (LDC) or Growth Management Plan (GMP), the applicable provisions of the LDC or GMP shall prevail. In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE

The provisions of this Ordinance shall become and be made a part of the Land Development Code of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SIX: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 12th day of February, 2019.

ATTEST:
CRYSTAL K. KINZEL, CLERK

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: Jessica Cannon
Deputy Clerk

By: W.L. McDaniel, Jr.
Chairman

Attest as to Chairman's
signature only.

Approved as to form and legality:

Scott A. Stone

Scott A. Stone
Assistant County Attorney

This ordinance filed with the
Secretary of State's Office the
14th day of February 2019
and acknowledgement of that
filing received this 14th day
of February 2019

By: Jessica Cannon
Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

February 14, 2019

Ms. Crystal K. Kinzel, Clerk
Collier County
Post Office Box 413044
Naples, Florida 34101-3044

Attention: Teresa L. Cannon

Dear Ms. Kinzel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2019-02, which was filed in this office on February 14, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb