

ORDINANCE NO. 07-

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; CREATING ARTICLE 17; AFFORDABLE AND WORKFORCE HOUSING INCENTIVES; CREATING SECTION 62-6300, PURPOSE AND INTENT; SECTION 62-6301, DEFINITIONS; SECTION 62-6302, AFFORDABLE HOUSING INCENTIVES; SECTION 62-6303, TRANSPORTATION IMPACT FEE DEFERRAL; SECTION 62-6304, HOUSING TRUST FUND AND UNIT MITIGATION BANK; SECTION 62-6305, DENSITY BONUS FOR AFFORDABLE HOUSING; SECTION 62-6306, TRANSFER OF DEVELOPMENT RIGHTS TO AFFORDABLE DEVELOPMENTS; SECTION 62-6307, WORKFORCE HOUSING INCENTIVES; SECTION 62-6308, AFFORDABLE HOUSING STOCK LOST TO DEVELOPMENT; SECTION 62-6309, INFILL DEVELOPMENT; SECTION 62-6310, USE OF ACCESSORY DWELLING UNITS; SECTION 62-6311, SECOND KITCHEN FACILITIES; SECTION 62-6312, ALTERNATIVE AND FLEXIBLE DESIGN REQUIREMENTS AND CRITERIA; SECTION 62-6313, COUNTY OWNED PROPERTY INVENTORY; RELATING TO AFFORDABLE /WORKFORCE HOUSING DEVELOPMENT AND INCENTIVES; PROVIDING FOR INTERPRETATION OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE.

WHEREAS, On May 2, 2006 the Board of County Commissioners (BOCC) held an Affordable Housing Workshop and directed the Housing and Human Services staff to create an Affordable Housing Task Force for the purpose of reviewing current policies and to identify solutions that support affordable housing production in Brevard County; and

WHEREAS, During the month of August 2006 the Affordable Housing Task Force met twice to review and comment on the draft ordinance; and

WHEREAS, On August 17, 2006 the Affordable Housing Council met in regular session to review the ordinance and voted unanimously to have the Board of County Commissioners consider adoption of the ordinance; and

WHEREAS, On August 23, 2006 the Affordable Housing Task Force voted unanimously to have the ordinance forwarded to the Board of County Commissioners for their review and consideration; and

WHEREAS, The ordinance is intended to implement the requirements of Chapter 163 F.S. generally, and specifically

163.3177(6)(f), and Chapter 420 F.S. generally, and specifically 420.907. F.S. and Chapter 125 F.S. generally, and specifically 125.379 F.S., and Florida Administrative Code Section 67-37; and

WHEREAS, The ordinance is intended to implement the requirements of the Brevard County Comprehensive Land Use Plan, and is consistent with Comprehensive Plan Policies located in the Housing and Future Land Use Elements and Chapters; and

WHEREAS, The Brevard County 2005-2010 Consolidated Plan for Housing and Community Development identified a growing deficit in the inventory of affordable housing units available in Brevard County; and

WHEREAS, the Board of County Commissioners, on October 10, 2006, directed preparation of an amendment to the County Code and Land Use Regulations as it relates to Affordable/Workforce Housing Developments and Incentives; and

WHEREAS, the Local Planning Agency, on November 20, 2006, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Building Construction Advisory Committee, on December 13, 2006, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency, the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Create Article 17, AFFORDABLE AND WORKFORCE HOUSING INCENTIVES:

SECTION 2. Sec. 62-6300. Purpose and intent. is hereby created as follows:

Section 62-6300. Purpose and intent.

The purpose of this Article is to provide for and maintain a variety of housing opportunities for present and future residents of Brevard County. Special emphasis shall be given to households with special needs. Application and use of this section and the incentives are voluntary, with the exception of the section entitled "Affordable Housing Stock Lost to Development"; this section is regulatory and applies to lands and properties within

the unincorporated areas of Brevard County. This article and section shall supersede when conflicted with other sections of the Land Development Regulations.

The Section is intended to comply with Chapter 163 F.S. generally and specifically 163.3177(6)(f), Chapter 420 F.S. generally and specifically 420.907. F.S., and Chapter 125 F.S and specifically 125.379.

SECTION 3. Sec. 62-6301. Definitions.is hereby created as follows:

Section 62-6301. Definitions.

*Accessory Dwelling Unit means* a residential structure that has separate kitchen, sleeping, and bathroom facilities, detached from the primary residence, that provides housing opportunities through the use of surplus space in the form of a cottage or guest-house style structure.

*Affordable means* that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in the definitions of low, moderate and very-low income persons or households as listed below. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.

*Moderate-income person or moderate-income household means* one or more natural persons or a family that has a total annual gross household income that does not exceed 120 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest.

*Low-income person or low-income household means* one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever amount is greatest.

*Very-low-income person or very-low-income household means* one or more natural persons or a family that has a total

annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households.

*Affordable housing* means a single family owner occupied, or multi-family owner occupied, or rental unit, or accessory dwelling unit that has a mortgage or rental payment, including utilities, not exceeding 30% of the gross income of households at or below 120% of the Area Median Income (AMI), as adjusted for family size.

*Affordable housing developments (AHD)* means a single family owner occupied, or multi-family owner occupied, or rental developments in which a minimum of 30% of the total units are set- aside for households at or below 120% of the Area Median Income (AMI).

Within the 30% set-aside:

- No less than 30% shall be designated for households up to 50% AMI,
- No less than 30% shall be designated for households between 51% to 80% AMI, and
- No more than 40% shall be designated for households between 81% and 120% AMI.

Income limits are updated periodically and are available from the Housing and Human Services Department, upon request. Affordable single family ownership units shall be designated for households at or below 80% AMI.

*Example: If a builder or developer proposed a 100 unit development; to receive incentives under the "affordable housing" status the development would need to set-aside 30 units as affordable. Of the 30 units, a minimum of 30% or 9 units would need to serve households at or below 50% of the AMI, another minimum of 30% or 9 units would need to be set-aside to serve households between 51% to 80% AMI, and no more than 40% or 12 units would need to be set-aside to serve households between 81% and 120% AMI..*

*Affordable housing tax credit eligible (AHTC)* means a rental unit that has a payment, including utilities, not exceeding 30% of the gross income of households at or below 60% of the Area Median Income (AMI), as adjusted for family size.

*Affordable Housing Tax Credit Eligible Developments (AHTCD)* means multi-family rental developments in which a minimum of 40% of the total units are set- aside for households at or below 60% of the Area Median Income (AMI) or less adjusted for family size, or which a minimum of 20% of the total units are set- aside for

households at or below 50% of the Area Median Income (AMI) or less adjusted for family size and which a minimum of 15 % of the total units are set-aside for households at or below 35% of the Area Median Income (AMI) or less adjusted for family size. Income limits are updated periodically and are available from the Housing and Human Services Department, upon request.

*Example: (40% of units at 60% AMI) If a builder or developer proposed a 100 unit development; to receive incentives under the "Affordable Housing, AHTC" status the development would need to set-aside 40 % or 40 units as Affordable AHTC serving households at or below 60% of the AMI. Within the set aside a minimum of 15% or 3 units would need to be set-aside to serve households at or below 35% of AMI.*

*Example: (20% of units at 50% AMI) If a builder or developer proposed a 100 unit development; to receive incentives under the "Affordable Housing, AHTC" status the development would need to set-aside 20 % or 20 units as Affordable AHTC serving households at or below 50% of the AMI. Within the set aside a minimum of 15% or 3 units would need to be set-aside to serve households at or below 35% of AMI.*

*Adjusted for family size* means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in the definitions of low, moderate and very-low income persons or households, based upon a formula established by the United States Department of Housing and Urban Development.

*Annual gross income* means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes. Counties and eligible municipalities shall calculate income by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

*Area median income* means the median family income in Brevard County, Florida, adjusted for family size, as published by the U.S. Department of Housing and Urban Development annually.

Land trust means a development organization which acquires or develops parcels of land for the primary purpose of providing affordable housing in perpetuity through conveyance of the

structural improvement subject to a long term ground lease which retains a preemptive option to purchase any such structural improvement at a price determined by a formula designed to ensure the improvement remains affordable in perpetuity.

Location evaluation matrix and needs analysis means a data collection and analysis tool and document applied to a potential development site requesting incentives or funds. This tool will assist staff with determining site suitability, and verifying currently available affordable/workforce housing stock in the immediate area, utilizing the best available federal census, or other recognized housing data sources or studies.

*Local housing assistance plan* means a concise description of the local housing assistance strategies and local housing incentive strategies adopted by local government resolution with an explanation of the way in which the program meets the requirements of ss. 420.907-420.9079, Florida Statutes and Florida Housing Finance Corporation rule.

*Maximum eligible sales price* means the sales price or value for a new or existing property, including the lot, not exceeding ninety percent (90%) of the Area Median Purchase Price, as provided by the Florida Housing Finance Corporation.

*Principal residence* means the household must utilize the property as their primary residence, as established by eligibility for the State Department of Revenue Property Tax Homestead Exemption. The household may not vacate the unit for more than 120 consecutive days in any one calendar year for any reason, other than a hospital or nursing home stay.

*Residential* means a structure or structures solely dedicated to the housing of a person or persons to live, cook and/or sleep within on a permanent basis, as either owner, renter or lessee provided, however, that adult congregate living facilities, retirement homes, nursing homes and other structures operated by a social service organization to provide residential care to children, the aged, the destitute and the physically, mentally and/or emotionally challenged shall be considered to be commercial land uses as defined herein.

*Workforce* means that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in the definition of workforce persons or households as listed below. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its

income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.

*Workforce person or households* means one or more natural persons or a family that has a total annual gross household income that does not exceed 140 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest.

*Workforce housing* means a single family owner occupied, or multi-family owner occupied, or rental unit, or accessory dwelling unit that has a mortgage or rental payment, including utilities, not exceeding 20% of the annual gross income of households at or below 140% of the Area Median Income (AMI), as adjusted for family size.

*Workforce housing developments (WFHD)* mean single family or multi-family, owner occupied developments in which a minimum of 15% of the total units are available to households with an income no higher than 140% AMI, and the units sales price can not exceed 20% above the moderate income home sales price established by the Florida Housing Finance Corporation, both of which may be adjusted from time to time. Income limits and sales prices are updated periodically and are available from the Housing and Human Services Department, upon request.

*Example: If a builder or developer proposed a 100 unit development; to receive incentives under the "workforce housing" status, the development would need to set-aside 15 units as workforce serving households with incomes no higher than 140% of AMI.*

SECTION 4. Sec. 62-6302. Affordable housing incentives. is hereby created as follows:

Section 62-6302. Affordable housing incentives. To meet the needs of Brevard County residents for affordable housing, a variety of incentives are provided. These incentives are listed below, along with the percentage of the units in the entire development which must meet the standards of affordable housing as defined in this Code. This article and section of the land development regulations shall supersede when conflicted with other articles and sections of the land development regulations.

1)Affordable/workforce housing project team (AWHT). Developments in which 30% or more of the entire project is affordable as designated by the code can receive the assistance of the County's Affordable/Workforce Housing Team. The team will provide

technical assistance to facilitate the movement of the project through the necessary permitting procedures. Priority use of the team resources will be given to developments with affordable units, and a longer period of affordability. The Team will consist of staff from the following offices and departments and include, but is not limited to: Land Development, Planning and Zoning, Natural Resources Management, Housing and Human Services, Traffic Engineering and Transportation Planning (MPO).

The AWHT shall review architectural elevations, site plan and subdivision designs and specifications, and when needed make written recommendations in report form to the applicant that would enhance the development and complement surrounding neighborhoods. Contact with the Affordable/Workforce Housing Team shall be made through the Affordable/Workforce Housing Coordinator.

2) Design review guidelines for affordable & workforce housing. The AWHT Team will make written recommendations in report form, when needed, based on the requirements of the land development regulations and the design guidelines listed below. Recommendations may be appealed to the Board of County Commissioners.

Design guidelines:

- a) Developments include a range of unit types, sizes and numbers of bedrooms;
- b) Buildings are aligned and close to the street or main drives;
- c) Buildings form and protect private open space;
- d) Buildings have front porches and balconies;
- e) Property lines are defined by fences, hedges, and garden walls;
- f) Vehicle parking and storage, garbage, and mechanical equipment are away from the street;
- g) When possible buildings are rear or side loaded when garages are proposed;
- h) Building architecture responds to and reflects the regional climate and culture;
- i) The building(s) have a contemporary or vernacular style front elevation in keeping with the existing character of the neighborhood.
- j) Building walls visible from a public street, major pedestrian corridor or public open space include architectural features such as windows, and trim.
- k) Street-facing building facades do not have a section of blank wall exceeding 30 linear feet without being interrupted by a window or entry.
- l) Windows and doors are proportioned to, and integrated with the facade modulation, establishing clear vertical and, or horizontal

hierarchy and patterns in the placement of openings and assemblies.

m) Details or elements are integral to the design and reflect the structural or material integrity of the building, rather than appearing added on.

n) Front entrance areas are easily recognizable from the street and include a welcoming architectural feature that shows the relationship of the private home to the street;

o) Porches are covered and extend at least 10' along the front wall of the house, not including the garage face. The depth of the porch shall be at least 6' in depth. Porches are raised or at ground level. Porch floors are of a hard surface material such as concrete, wood, tile, brick, or flat stone. Porches are integral architectural feature with the main structure and incorporate railings.

p) Buildings have a strong street presence, with public entrances and front doors oriented toward the street, or to a public pathway adjacent to open space.

q) Privacy between units is maintained by locating windows away from windows in adjacent units.

r) Universal design concepts are applied in the design and construction of development sites, buildings and units, especially first or ground floor units. Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. The intent is to simplify daily life for everyone by making products, communications, and the built interior and exterior environment more usable, by as many people as possible, at little or no extra cost, to the benefit of people of all ages and abilities.

*Comment: Language added here to address quality of development and neighborhood compatibility concerns.*

3) Permit review and recording fee refunds. All developments with affordable housing units shall be eligible for refund of County review and recording fees (e.g. planning, building, engineering, clerk of courts), from available funds administered by the County Department of Housing and Human Services, as permitted by law. Refunding of permit review and recording fees shall not result in a loss of fee revenues for county departments involved in development review. Developments will be eligible to request a refund of review and recording fees only for the units designated as affordable, contingent upon the availability of funds. This does not include impact fees, facility investment fees, connection fees or similar fees.

4)Application for fee refund. Applicants seeking fee refunds shall submit an application to the Affordable/Workforce Housing Coordinator who will assist the applicant in working with the proper county department.

5)Affordability agreement. The applicant shall enter into a land use and deed restriction affordability agreement with the County. The affordability agreement shall provide the number and designation level of affordable units, and period of time as affordable, for the development to seek fee refunds according to the terms and conditions of the agreement, consistent with the written policies and procedures established by the Board of County Commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

SECTION 5. Sec. 62-6303. Transportation impact fee deferral. is hereby created as follows:

| Section 62-6303.Transportation impact fee deferral.

In an effort to minimize the impact on affordable households of increasing impact fees, the County has elected to defer the effective county transportation impact fee. All affordable units are eligible to have the County transportation impact fee deferred. Contact shall be made through the Affordable/Workforce Housing Coordinator.

SECTION 6. Sec. 62-6304. Housing trust fund and unit mitigation bank. is hereby created as follows:

Sec. 62-6304. Housing trust fund and unit mitigation bank.

1)There is hereby created, pursuant to this Ordinance, a Brevard County Housing Trust Fund for the receipt of non-ad valorem revenues, and residential density equivalent units, for use in the development and rehabilitation of Affordable Housing. The use of funds and residential density equivalent units from the Housing Trust Fund shall be limited to developments where 30% or more of the units meet the definition of Affordable Housing.

2)Dispersion of funds. The Board of County Commissioners shall establish and adopt written policies and procedures for the dispersion of such trust funds and residential density equivalent units. The criteria shall include a priority based ranking system, similar to the Florida Housing Finance Corporation format, to determine priority for the awarding of funds or density equivalent units to applicants.

*Example: Proposals having more than the minimum percentage of units serving lower income residents shall receive a higher priority ranking.*

3)Application. Any applicant seeking to secure such funds or residential density equivalent units shall submit an application to the Housing and Human Services Department.

4)Trust Fund and unit dispersion. Dispersion of funds and, or, density equivalent units shall be limited by fund availability and shall be in accordance with the written policies and procedures established by the Board of County Commissioners for the use of such funds. Dispersion of residential unit density, by the transfer of development rights, shall be consistent with the Transfer of Development Rights For Affordable Units Section of the code and the County Comprehensive Plan.

Developments seeking the use of housing trust funds or density equivalent units should be located in areas serviced by existing transportation and utilities infrastructure, and located near other public facilities, services, employment centers, shopping, active mass transit corridors, day care centers, schools, and health services. A location evaluation matrix [and needs analysis](#) form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Developments scoring at or above the minimum 66% percentile will be eligible to receive housing trust funds and density equivalents. A complete application will include a completed location evaluation matrix [and needs analysis](#) form that meets the minimum scoring requirement at or above the 66% percentile. A higher ranking score may be used to determine the awarding of additional funds when available.

5) Trust fund affordability agreement. The applicant shall enter into a land use and deed restriction affordability agreement with the County. The agreement shall provide the number and designation level of affordable units, and period of time as affordable, and any other requirements in order to receive Housing Trust Fund monies or units consistent with the written policies and procedures established by the Board of County Commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

6) Trust fund discretionary allocation. Allocation of these funds and units are discretionary and must compete with all other developments, and are based on fund and unit availability. Priority shall be given to developments designed to facilitate pedestrian access to transit and neighborhood commercial nodes and that score above the 66% percentile on completed location evaluation matrix [and needs analysis](#) forms.

SECTION 7. Sec. 63-6305. Density bonus for affordable housing.is hereby created as follows:

Section 63-6305. Density bonus for affordable housing.

1)Developments located within any residential or commercial zoning or future land use category with a density of 6 units per acre or greater, and with a minimum 30% of units designated as affordable housing, or meeting the (AHTC) definition and eligibility requirements, are eligible for a 25 % density bonus consistent with the criteria in the Brevard County Comprehensive Plan, provided the overall residential development density does not exceed the density in the next highest residential future land use designation. Developments located in unincorporated Brevard County within any coastal hazard area defined by the comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

The 30% minimum requirement for affordable, or (AHTC) eligible units, applies to the total number of residential units realized from the calculated density bonus. (Example: 20 Units x 1.25 = 25 Units. 25 Units x .30 = 7 Units Required as Affordable Housing.)

2)Mixed use commercial & residential. Developments with residential units located on lands within the Commercial Future Land Use Categories, and Business Zoning Classifications, are eligible for development incentives provided by this section, consistent with the policies in the applicable elements of the County Comprehensive Plan.

3)Density bonus use on site. Density bonuses may be used only within the development site creating the bonus units.

4)Zoning requirements & review criteria for affordable developments exceeding established future land use density. In order to realize additional residential units from a density bonus, up to 25% over the maximum density allowed in the Future Land Use Categories that allow the use of a density bonus, a rezoning to a Planned Unit Development (PUD) or Residential Planned Unit Development (RPUD) zoning classification shall be required. In evaluating the rezoning request and proposed development location, the Board shall consider the density and intensity of surrounding land uses and compatibility with neighboring uses in determining the maximum density to allow. This density may be less than the highest density bonus amount permitted by the Comprehensive Plan and Future Land Use Designations. Developments located in unincorporated Brevard County within any coastal hazard area defined by the

comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

5) Location evaluation matrix and needs analysis. In addition to the existing review criteria for PUD and RPUD zoning change applications the following location criteria apply. The areas of rezoning and development should be located in areas serviced by existing transportation and utilities infrastructure, and located near other public facilities, services, employment centers, shopping, active mass transit corridors, day care centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the Board as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Projects scoring at or above the minimum 66% percentile will be eligible to receive a density bonus. A complete application will include the location evaluation matrix and needs analysis forms that meet the minimum scoring requirement at or above the 66% percentile.

In determining the appropriateness of a rezoning the Board of County Commissioners shall consider all factors associated with the review of a PUD or RPUD development project pursuant to this Code. The Board of County Commissioners shall also consider the impact of the proposed project on the transportation level of service.

6) Density Bonus Affordability Agreement. The applicant shall enter into a land use and deed restriction affordability agreement (LURA) with the County. The agreement shall provide for the number of units which can be built subject to a density bonus and to ensure that the required percentage of units are maintained as affordable units and/or special needs units, for a period of time consistent with the written policies and procedures established by the Board of County Commissioners. A land trust may be used as a mechanism to retain units as affordable and/or special needs.

SECTION 8. Sec. 62-6306. Transfer of development rights to affordable developments. is hereby created as follows:

Section 62-6306. Transfer of development rights to affordable developments.

1) The transfer of development rights consistent with existing comprehensive land use plan policies, from elsewhere in the unincorporated county, to a project with a minimum of 30% affordable units is allowed.

2)Zoning Requirements & Review Criteria. In order to transfer development rights, a rezoning to PUD or RPUD zoning classification will be required, unless otherwise permitted by policies in the comprehensive land use plan. During a rezoning, the Board shall evaluate the density and intensity of surrounding land uses and compatibility with neighboring uses in determining the maximum density to allow. This density may be below the highest permitted by the existing Future Land Use Designation.

The areas receiving density, or that are subject to rezoning and development should be located in areas serviced by existing transportation and utilities infrastructure, and located near other public facilities, services, employment centers, shopping, active mass transit corridors, day care centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Projects scoring at or above the minimum 66% percentile will be eligible to receive transfer of development rights. A complete application will include the location evaluation matrix and needs analysis forms that meet the minimum scoring requirement at or above the 66% percentile.

In determining the appropriateness of a density transfer, rezoning request and proposed development location, the Board of County Commissioners shall consider all factors associated with the review of a PUD or RPUD project pursuant to this Code. The Board of County Commissioners shall also consider the impact of the proposed project on the transportation level of service.

3)Density transfer maximum. If units are transferred, the maximum project density permissible is that permitted by the Comprehensive Land Use Plan and Future Land Use Map. This density may be below the highest density bonus amount allowed.

4)Density transfer affordability agreement. If the transfer of units is granted, the applicant shall enter into a land use and deed restriction affordability agreement with the County. The agreement shall provide for the number of units which can be built subject to the transfer and to ensure that the required percentage of units are retained as affordable housing units for a period of time consistent with the written policies and procedures established by the Board of County Commissioners. The agreement shall also ensure development rights are limited on the sending parcel, and identify any legally enforceable mechanisms necessary to ensure such limitations, and that the agreement is recorded on the County land records. A land trust may be used as a mechanism to retain units as affordable and/or special needs units.

SECTION 9. Sec. 62-6307. Workforce housing incentives. is hereby created as follows:

Section 62-6307. Workforce Housing Incentives.

To meet the needs of Brevard County residents for Workforce Housing as defined in the code, the following incentives are provided.

1)Density Bonus for Workforce housing. Developments located within any residential or commercial zoning or future land use category, with a density of 6 units per acre or greater, and with at least 30% of units designated as workforce housing are eligible for a 15% density bonus, consistent with the criteria in the Brevard County Comprehensive Plan, provided the overall residential development density does not exceed the density in the next highest residential future land use designation. Developments located in unincorporated Brevard County within any coastal hazard area defined by the comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

(Example: 20 Units x 1.15 = 23 Units. 23 Units x .30 = 7 Units Required as Workforce Housing.

2)Workforce Density Bonus Use On Site. Density bonuses may be used only within the development site creating the bonus units.

3)Zoning Requirements & Review Criteria for Workforce Developments Exceeding Established Future Land Use Density. In order to realize additional residential units from a density bonus, up to 15% over the maximum density allowed in the future land use categories that allow the use of a density bonus, rezoning to a Planned Unit Development (PUD) or Residential Planned Unit Development (RPUD) zoning classification shall be required. In evaluating the rezoning request and proposed development location, the Board shall consider the density and intensity of surrounding land uses and compatibility with neighboring uses in determining the maximum density to allow. This density may be below the highest density bonus amount permitted by the Comprehensive Plan and Future Land Use Designations. Developments located in unincorporated Brevard County within any coastal hazard area defined by the comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

In addition to the existing review criteria for PUD and RPUD zoning change applications the following location criteria apply. The areas of rezoning and development should be located in areas

serviced by existing transportation and utilities infrastructure, and located near other public facilities, services, employment centers, shopping, active mass transit corridors, day care centers, schools, and health services. A location evaluation matrix and needs analysis form, authorized by the BOCC as a part of these regulations, shall be completed and submitted to determine consistency with the location criteria. Developments scoring at or above the minimum 66% percentile will be eligible to receive a density bonus. A complete application will include the location evaluation matrix and needs analysis forms that meet the minimum scoring requirement at or above the 66% percentile.

In determining the appropriateness of a rezoning the Board of County Commissioners shall consider all factors associated with the review of a PUD or RPUD development pursuant to this Code. The Board of County Commissioners shall also consider the impact of the proposed project on the transportation level of service.

4) Permit review and recording fee refunds. All developments with workforce housing units shall be eligible for refunds of County review and agreement filing fees (e.g. planning, building, engineering), from funds administered by the County Department of Housing and Human Services, as permitted by law, contingent on availability of funds. Developments with workforce units will be eligible to request a refund of review and recording fees only on the units designated as workforce. This does not include impact fees, facility investment fees, connection fees or similar fees.

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5) Workforce housing agreement. The applicant shall enter into a land use and deed restriction affordability agreement with the County. The agreement shall provide the number and designation level of workforce units, and period of time as workforce housing, and any other requirements in order to receive Housing Trust Fund monies or units consistent with the written policies and procedures established by the Board of County Commissioners. A land trust may be used as a mechanism to retain units as workforce.

6) Affordable/workforce housing team. Developments in which 15% or more of the entire project is workforce housing can receive the assistance of the County's Affordable/Workforce Housing Team. The team will provide technical assistance to facilitate the movement of the development through the necessary permitting procedures. Contact with the Affordable/Workforce Housing Team shall be made through the Affordable/Workforce Housing Coordinator.

Priority use of the team resources will be given to projects with affordable units, and a greater period of time that units will remain affordable. Subsequent priority will be given to

developments that have workforce, or a combination of affordable and workforce units. A higher percentage of units mean a higher priority.

SECTION 10. Sec. 62-6308. Affordable housing stock lost to development. is hereby created as follows:

Sec. 62-6308. Affordable housing stock lost to development.

(1) Loss of affordable housing units. Development activities that include, demolition, removal, destruction, physical conversion, or change of use conversion in unincorporated Brevard County, which eliminates affordable housing units as defined and created under this Section of the code, unless otherwise specified in an existing written agreement approved by the Board of County Commissioners, shall:

Deleted: defined by this code, or created

(a) provide unit replacement stock on site at a ratio of 1 to 1;

(b) or upon demonstration of a documented hardship, that is approved by the BOCC, pursue other mitigation measures as listed below;

i. provide unit replacement off site, at one location, within a 10 mile radius, at a ratio of 1 to 1. The site must meet the minimum requirements of the location evaluation matrix and needs analysis, and utilize the design review guidelines;

ii. provide payment to the Housing Trust Fund in an amount established by the Board;

iii. provide an innovative replacement contribution to the housing trust fund meeting the requirements of the code;

iv. donate suitable land and, or residential unit equivalent development rights, to be used by the County, or a County recognized land trust, for the development of affordable housing. The land or site must meet the minimum requirements of the location evaluation matrix and needs analysis, and allow the application of the design review guidelines.

(2) Innovative replacement methods. Other unique or innovative replacement contributions which further the goals of the Brevard County Local Housing Assistance Plan and the Brevard County Comprehensive Plan may be implemented to meet the requirements of the code above. These innovative replacement contributions must

be approved by the Board, after recommendation by the Housing and Human Services Director.

(3) Replacement exemption. Single family structures, on a single family lot, may be replaced with another single family structure by the same property owner, and are exempt from the replacement requirements of this Code.

SECTION 11. Sec. 62-6309. Infill development. is hereby created as follows:

Sec. 62-6309. Infill development.

Infill development, redevelopment and use of existing and permitted development, is encouraged, including mixed uses, that provide affordable or workforce housing units, and may utilize incentives, the flexible design standards and applicable design guidelines, on existing lots of record, and non-conforming lots of record, that meet the requirements of the Comprehensive Land Use Plan and the Land Development Regulations.

Deleted: or redevelopment activities are encouraged,

Deleted: be approved

SECTION 12. Sec. 62-6310. Use of accessory dwelling units (ADUS).is hereby created as follows:

Section 62-6310. Use of accessory dwelling units (ADUS).

If any portion of this section is in conflict with existing provisions of the code, the requirements of this section shall supersede. One detached accessory dwelling unit with full kitchen facilities is permitted on single family property provided:

- 1) The owner signs a land use and deed restriction affordability agreement with the County that provides the maximum amounts and period of rental rates at affordable or workforce housing levels consistent with the written policies and procedures established by the Board of County Commissioners. Permit Review Fee refunds are available for units meeting the terms and conditions of the affordability agreement and this section of code;
- 2) That the property is owner occupied and has a homestead exemption;
- 3) The property is zoned single family residential in a zoning classification with a minimum lot size requirement of no less than 12,000 square feet, or is a single family unit in a PUD or RPUD approved under this specific section of the code;
- 4) There is a primary residential structure on the property;
- 5) The minimum residential lot size is 12,000 square feet;
- 6) The property and units are serviced by a sanitary wastewater collection system or onsite treatment system.

Deleted: 5000

- 7) There are adequate on site parking spaces with a minimum of one space designated for the unit;
- 8) The interior floor area of the living unit is a minimum of 300 square feet, and does not exceed 700 square feet in size,
- 9) The unit is designed and constructed in a manner compatible with the height of the existing structures on site;
- 10) The unit is designed and constructed consistent with all building, fire safety, health and sanitation codes;
- 11) Conversion of existing guest quarters or other accessory structures, created before the effective date of this ordinance, meet all of the criteria as listed above.

SECTION 13. Sec.62-6311. Second kitchen facilities.is hereby created as follows:

Section 62-6311. Second kitchen facilities.

A second kitchen is permitted in primary residences in single family zoning classifications that have a minimum lot size requirement of 12,000 square feet.

Deleted: 7,500

SECTION 14. Sec. 62-6312. Alternative and flexible design requirements and criteria for developments providing a minimum 30% of affordable or workforce housing units. is hereby created as follows:

Sec. 62-6312. Alternative and flexible design requirements and criteria for developments providing a minimum 30% of affordable or workforce housing units.

(1)The following requirements or standards may be reduced by up to 35% for developments 30 acres and under, that require site plan or subdivision review and approval, provided they do not have negative impacts to the health, safety, and welfare of the residents of Brevard County; these include:

Deleted: under

Deleted: 7

- (a) Front yard setbacks;
- (b) Side yard setbacks(not less than 5 feet);
- (c) Rear yard setbacks;
- (d) Key lot requirements for yard setbacks;
- (e) Perimeter landscape buffer requirements;
- (f) Guest parking spaces;
- (g) Usable common or active open space;
- (h) Maximum lot coverage requirements;
- (i)Landscaping and tree clearing requirements including plant numbers, bed widths and size, & area percentages.

(2)The following standards and criteria are permitted for developments 30 acres and under, that require site plan review and approval:

Deleted: less than 7 acres

- (a)Dry retention areas when designed properly for multiple uses may count as usable common or active open space;
- (b) Passive open space is not required;
- (c) Front, rear, and side door yards may be counted as usable common or active open space;
- (d)Permitted on street parking spaces in the public right of way along site frontages may count as 0.5 of a space toward on site parking requirements;
- (e)The required parking spaces for a 1 bedroom residential unit shall be 1.5 spaces per unit, and 1 space for each efficiency, studio, or 1 bedroom senior citizen, elderly or special needs unit;
- (f)Unenclosed, covered patios and steps less than 60 square feet, at a depth to 6 feet, shall not be considered as the building line for measuring setback purposes;
- (g)Pervious parking space designs are acceptable for guest parking spaces;
- (h)RPUD developments shall be allowed to have a minimum size of 3 acres provided no commercial uses will be permitted and this is stipulated in a binding development plan.

(3)The following standards and criteria are permitted for newly proposed subdivisions in residential zoning classifications with a minimum lot size requirement of 6,600 square feet to 1 acre:

Deleted: 10,000

Newly proposed residential subdivisions with a minimum 30% of units designated as affordable or workforce housing, are permitted to reduce minimum lot size, frontage and depth requirements by up to 50%, for up to 30% of the total lots in the subdivision, provided they do not have negative impacts to the health, safety, and welfare of the residents of Brevard County and provided that the applicant enters into a land use and deed restriction affordability agreement (LURA) consistent with the written policies and procedures established by the Board of County Commissioners. The resulting lots with reduced area shall not be less than 5000 square feet in size, with a width not less than 50 feet, or lot depth not less than 100 feet.

Developments located in unincorporated Brevard County within any future land use category with a density of less than 6 units per acre, or coastal hazard area defined by the

comprehensive plan, or on any of the barrier islands, are not eligible for reduced lot size under this section.

4) Roads, driveways and parking lots. For developments providing a minimum 30% of affordable, or 15% workforce housing units, the following requirements may be reduced for private right of way widths, road widths, driveway widths, drive aisle widths, and turn radii provided they are consistent with [American Association of State Highway and Transportation Officials \(ASHTTO\) guidelines](#), or other similar guidelines or best practices for context sensitive design solutions, acceptable to Brevard County for low volume traffic conditions and speeds.

SECTION 15. Sec. 62-6313. County owned property. is hereby created as follows:

Sec. 62-6313 County owned property inventory.

1) By July 1, 2007, and every 3 years thereafter, the county shall prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing. The inventory list must include the address and legal description of each such real property and specify whether the property is vacant or improved. The board of county commissioners must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The board shall adopt a resolution that includes an inventory list of such property following the public hearing.

2) Use and Sale of County Owned Property. The properties identified as appropriate for use as affordable housing on the inventory list adopted by the county may be offered for sale and the proceeds used to purchase land for the development of affordable housing or to increase the local government trust fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, or may be donated to a nonprofit housing organization for the construction of permanent affordable housing. Alternatively, the county may otherwise make the property available for use for the production and preservation of permanent affordable housing. For purposes of this section, the term "affordable" has the same meaning as in fs.420.0004(3).

A County recognized land trust may receive land for the development of affordable housing.

SECTION 16. Conflicting Provisions. Unless otherwise stated in this Article, in the case of a direct conflict between any provision of this ordinance and a portion or provision of any

other appropriate federal, state or county law, rule code or regulation, the more restrictive shall apply.

SECTION 17. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 18. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 19. Effective Date. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 20. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in regular session, this 5<sup>th</sup> day of April, 2007.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
, Chair  
As approved by the Board on April 5, 2007.

( S E A L )

Reviewed for legal form and  
content by:  
Assistant County Attorney

**(Location Evaluation Matrix (LEM))**

Name of Project:

Address of Potential Site:

Date:

|    | Existing Service Location                 | Proximity (Yes or No)            |                                |                                      | Impact on Residents Evaluation<br>Neutral-1Point/Positive-2<br>Points/Ideal-3 Points | Comment |
|----|---|----------------------------------|--------------------------------|--------------------------------------|--|---------|
|    |   | 1/2 Mile Walking Distanc<br>1 pt | 5 Miles by Car or Less<br>1 pt | 30-45 Minutes Transit One-Way<br>1pt |  |         |
|    | <b>Choose as many that apply</b>          |                                  |                                |                                      | <b>Point Evaluation</b>  |         |
| 1  | Adult Day Care *                          |                                  |                                |                                      |  |         |
| 2  | Bank                                      |                                  |                                |                                      |  |         |
| 3  | Active Bus Line                           |                                  |                                |                                      |  |         |
| 4  | Child Care *                              |                                  |                                |                                      |  |         |
| 5  | Clinic *                                  |                                  |                                |                                      |  |         |
| 6  | Community Center *                        |                                  |                                |                                      |  |         |
| 7  | Convenience Store                         |                                  |                                |                                      |  |         |
| 8  | Department Store                          |                                  |                                |                                      |  |         |
| 9  | Drug Store *                              |                                  |                                |                                      |  |         |
| 10 | Major Employment Centers (non retail)     |                                  |                                |                                      |  |         |
| 11 | Government Services                       |                                  |                                |                                      |  |         |
| 12 | Health Center *                           |                                  |                                |                                      |  |         |
| 13 | Hospital                                  |                                  |                                |                                      |  |         |
| 14 | Laundromat                                |                                  |                                |                                      |  |         |
| 15 | Library                                   |                                  |                                |                                      |  |         |
| 16 | Local Retail                              |                                  |                                |                                      |  |         |
| 17 | Medical Office *                          |                                  |                                |                                      |  |         |
| 18 | Movie Theater                             |                                  |                                |                                      |  |         |
| 19 | Park                                      |                                  |                                |                                      |  |         |
| 20 | Place(s) of Worship                       |                                  |                                |                                      |  |         |
| 21 | Playground                                |                                  |                                |                                      |  |         |
| 22 | Restaurant *                              |                                  |                                |                                      |  |         |
| 23 | School *                                  |                                  |                                |                                      |  |         |
| 24 | Shopping Center                           |                                  |                                |                                      |  |         |
| 25 | Super Market                              |                                  |                                |                                      |  |         |
|    | <b>Must choose only one for each</b>      | <b>One Mile or Less (3PTS)</b>   | <b>2-5 Miles (2 PTS)</b>       | <b>6-10 Miles (1 PT)</b>             |  |         |
| 26 | Police Station                            |                                  |                                |                                      |  |         |
| 27 | Fire/Rescue Station                       |                                  |                                |                                      |  |         |
| 28 | Existing Water/Utility Line               |                                  |                                |                                      |  |         |
| 29 | Existing Sanitation/Sewer Utility Line    |                                  |                                |                                      |  |         |
| 30 | Existing Category 1-3 Hurricane Shelter * |                                  |                                |                                      |  |         |
|    |   |                                  |                                |                                      | *Points may be added if service is part of proposed PUD or RPUD                      |         |