

g. Deed Restriction

The warranty deed documenting a sale of WHP rental units shall include a statement that the units are subject to covenants, conditions, and restrictions including the Master Covenant, and shall include the date of recordation of the Master Covenant, and the Book and Page of the Official Record. **[Ord. 2019-033]**

E. Enforcement

The County may enforce the requirements of the WHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, reclassification of a lesser unit to another income category, and tolling of the 15-year recurring term of for-sale units or the 30-year non-recurring term for rental units of the WHP. **[Ord. 2019-033]**

Section 2 Affordable Housing Program (AHP)

A. Purpose and Intent

The AHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an AHP. The AHP is a voluntary program used by an Applicant seeking additional density for an affordable housing development. An AHP Applicant elects to provide at a minimum 65 percent of the total number of dwelling units targeted to households at incomes of 60 percent of Area Median Income (AMI) and below. In any proposal a maximum of 20 percent of all units will target incomes of 30 percent and below AMI. The program ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. Consideration may be given to developments requesting income percentage targets that are different from those previously indicated, based on programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with different programmatic requirements, with the final determination made by the Executive Director of Planning, Zoning and Building or designee. **[Ord. 2009-040] [Ord. 2012-003]**

B. Applicability

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The AHP shall apply to developments with a residential component of 10 or more dwelling units with all units being built on site. This shall include the expansion of existing projects that add 10 or more dwelling units, where the program shall apply to those units being added. Requirements and limitations are further defined in [Table 5.G.2.B, Affordable Housing Program](#). [Ord. 2009-040]

1. Exemptions

Congregate living facilities (CLFs); and, nursing or convalescent facilities. [Ord. 2009-040]

2. Limitation on Restrictions

AHP units shall not be subject to restrictions beyond income qualifications except those restrictions imposed by a governmental agency providing affordable housing financing. [Ord. 2009-040]

Table 5.G.2.B – Affordable Housing Program

Applicability		
Location	Tier or Overlay FLU (1)	U/S LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18
Density Bonus Incentive		
LR-1 through LR-3		0-30% (3)
MR-5 through HR-18 (2)		0-100% (3)
[Ord. 2009-040]		
Notes:		
1.	Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. [Ord. 2009-040]	
2.	A density bonus of >30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for greater than 30 percent Density Bonus. [Ord. 2009-040]	
3.	Percentages shall be rounded up to the nearest whole number. [Ord. 2009-040]	
Affordability: A minimum of 65% of all units at 60% of AMI or below and a 20% maximum of all units at 30% and below AMI. [Ord. 2009-040]		

C. Design Requirements

AHP units shall be designed to be compatible with the overall project, as follows: [Ord. 2009-040]

1. All AHP units shall be constructed on site; [Ord. 2009-040]
2. All units shall be designed to a compatible exterior standard as other units within the development or pod; and, [Ord. 2009-040]
3. AHP units may be clustered or dispersed throughout the project. [Ord. 2009-040]

D. AHP Incentives

All projects with 10 or more residential units shall be eligible for AHP Incentives. [Ord. 2009-040]

1. Density Bonus

[Table 5.G.2.B, Affordable Housing Program](#), delineates the ranges of density bonus allowed for the AHP by land use category. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the AHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of the Plan, projects requesting a density bonus shall be subject to the requirements of [Table 5.G.2.D, Review Process](#), and [Art. 5.G.2.E, Additional Requirements for Density Bonus](#). [Ord. 2009-040]

Table 5.G.2.D – Review Process

Density Bonus	DRO Approval	Class A Conditional Use
Standard District > 30-50%	X	
Standard District > 50-100%		X
PDD or TDD > 30-100%		X
[Ord. 2009-040] [Ord. 2017-025]		

2. Traffic Performance Standards Mitigation

a. AHP Special Methodologies

TPS mitigation shall be permitted for AHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2009-040] [Ord. 2011-016]

b. AHP Traffic Concurrency Hall Pass

TPS mitigation shall also include the option of applying for an AHP Traffic Concurrency Hall Pass separate from a Development Order application. The AHP Traffic Concurrency Hall Pass serves

as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The AHP Traffic Concurrency Hall Pass is described further in [Art. 2.F, Concurrency \(Adequate Public Facility Standards\)](#). [Ord. 2009-040]

3. Expedited Review

The following expedited review processes may apply to a proposed AHP development: [Ord. 2009-040]

a. Design Review

Review of Multifamily or Townhouse structures by the Building Division and Fire-Rescue shall be allowed concurrent with Final DRO review, prior to permit application. [Ord. 2009-040]

b. Platting

- 1) If only a boundary plat is required for an existing single lot, Building Permits may be issued after submittal of the Final Plat for recordation. [Ord. 2009-040]
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. [Ord. 2009-040]
- 3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building Permits for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a Final Plat. [Ord. 2009-040]

4. Density Bonus Development Options

a. Purpose and Intent

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of AHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis. [Ord. 2009-040]

b. Applicability

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the AHP may utilize the Development Options listed herein. [Ord. 2009-040]

c. Justification Report

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: [Ord. 2009-040]

- 1) The regulations that are proposed to be modified. [Ord. 2009-040]
- 2) The amounts and specifics of the requested deviation(s). [Ord. 2009-040]
- 3) The areas within the development that the deviation(s) will be applied to. [Ord. 2009-040]
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and AHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare. [Ord. 2009-040]

d. Site Plan Approval

All projects requesting Density Bonus Development Options shall submit an application and site plan to the DRO for certification where applicable, and for Final Site Plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where feasible, a Regulating Plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. [Ord. 2009-040]

e. Drainage

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. [Ord. 2009-040]

f. Option 1 – AR, and RT Districts

The zoning for parcels electing to use this option must be in compliance with [Table 3.A.3.B, Future Land Use \(FLU\) Designation and Corresponding Standard Zoning Districts](#). [Ord. 2009-040]

1) AR FAR Calculations

New SFD lots in the AR district shall be permitted to calculate FAR based on the acreage of the FLU designation. [Ord. 2009-040]

2) RT PDR Deviations

Deviations from the minimum PDRs for the RT district with an LR-2 or LR-3 FLU designation may be in accordance with [Table 5.G.2.D, RT Deviations for AHP](#), only for those projects that

exceed the standard density in the footnote in FLUE Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, and utilize a minimum density bonus of 20 percent. **[Ord. 2009-040] [Ord. 2019-005]**

Table 5.G.2.D – RT Deviations for AHP

Zoning District	Applicability	FLU	Lot Dimensions			Setbacks		
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	TDR, WHP, AHP	LR-2	12,000 sq. ft.	85 feet	35%	100 feet	ND	ND
RT	TDR, WHP, AHP	LR-3	9,000 sq. ft.	65 feet	40%	80 feet	1st Floor – 10 feet	1st floor – 15 feet
[Ord. 2009-040] [Ord. 2019-005]								
Notes:								
ND	No deviation.							

g. Option 2 – TND Regulations

Projects eligible for this option shall be permitted to utilize the PDRs of [Table 3.F.3.D, TND Residential Lot Size and Setback Regulations](#), subject to meeting the requirements of [Art. 3.F.3.D.5, Residential Uses](#) and the following limitations: **[Ord. 2009-040]**

- 1) U/S Tier Only; **[Ord. 2009-040]**
- 2) Project does not qualify to be a TND or use Option 1 or 3; **[Ord. 2009-040]**
- 3) If the subject site has an LR-1, LR-2, LR-3, or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; **[Ord. 2009-040]**

h. Option 3 – Flexible Regulations

Projects with MR-5, HR-8, HR-12, or HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of [Table 3.D.1.A, Property Development Regulations \(PDRs\)](#), or [Table 3.D.2.B, ZLL Property Development Regulations](#), as follows: **[Ord. 2009-040]**

- 1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. **[Ord. 2009-040]**
- 2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. **[Ord. 2009-040]**
- 3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten-percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. **[Ord. 2009-040]**

i. Option 4 – PDD Open Space Reduction

Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of [Table 3.E.2.C, PUD Land Use Mix](#), to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in [Art. 1.H.2.O.13, Open Space, Usable](#) for AHP. **[Ord. 2009-040]**

j. Option 5 – Internal Incompatibility Buffers

Required Incompatibility Buffers between SFD and MF units within an AHP development shall not be required. **[Ord. 2009-040]**

k. Option 6 – Relocation of Units to Civic Tracts

Residential units may be permitted in a Civic Pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: **[Ord. 2009-040]**

- 1) In the case of a civic site cash out, the deletion of the Civic Pod and increase in Residential Pod area; or **[Ord. 2009-040]**
- 2) The relocation of residential units to a Civic Pod, or the relocation of residential units where the Civic Pod is deleted. **[Ord. 2009-040]**

E. Additional Requirements for Density Bonus

Projects requesting a density bonus shall comply with the following: **[Ord. 2009-040]**

1. Sector Analysis

AHP projects shall be equitably distributed so that there is no undue concentration of very-low and low-income housing throughout the County. [Table 5.G.2.E, AHP Density Bonus Guide \(Step 1\)](#) indicates the Step 1 density bonus permitted. The concentration of very-low and low-income housing within a sector will be taken into consideration when determining the Step 1 density bonus permitted. Additional density may be added in accordance with [Table 5.G.2.E, AHP Density Bonus Multipliers \(Step 2\)](#). This

Step 2 analysis considers the proposed development and its location to neighborhood amenities; a public transit option; employment and shopping opportunities; grocery store (excluding convenience store); public school; medical facilities; social services; and, public recreation facilities. Prior to submittal of an AHP pre-application, the Applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum AHP density bonus, total Step 1 plus Step 2, not to exceed a 100-percent bonus as recommended by the Planning Director or designee. **[Ord. 2009-040]**

Table 5.G.2.E – AHP Density Bonus Guide (Step 1)

Percentage of Very-Low and Low-Income Housing (60% of AMI & below) in Sector	Greater than 40%	40-30%	30-20%	20-0%
Step 1 Density Bonus	Up to 30%	Up to 50%	Up to 80%	Up to 100%
[Ord. 2009-040]				

Table 5.G.2.E – AHP Density Bonus Multipliers (Step 2)

Proximity to Proposed Development	Public Transit Option	Employment and Shopping Opportunities 150,000 sq. ft., Guide (Office, Industrial, Business, Government, Community/Regional Commercial, Retail Center)	Grocery Store (excluding Convenience Store)	Public School (Elementary, Middle, High Schools or Community College)	Medical Facilities (Hospital, Health Care, Urgent Care, Medical Offices)	Social Services (Daycare, Full-Service Community Centers, Public Library)	Public Recreation Facilities Off Site (Public Parks, Ballfields, etc.)	Maximum AHP Density Bonus
Greater than 0 Up to ¼ Mile*	20%	20%	20%	20%	20%	10%	10%	100%
Greater than ¼ Up to ½ Mile*	15%	15%	15%	15%	15%	5%	5%	
Greater than ½ Up to 1 Mile*	0	10%	10%	10%	10%	2.5%	2.5%	
Greater than 1 Up to 2 Miles*	0	5%	5%	5%	5%	0%	0%	

[Ord. 2009-040]

Notes:

* For each multiplier column, only one of the four options (the closest amenity) may apply.

- a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and Collector Streets bounded by Arterial Roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major Arterial Roadway or a wildlife refuge. **[Ord. 2009-040]**
- b. Housing characteristics, (such as household family incomes and affordable housing stock data) for the sector shall be derived from the most current available census data. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director. **[Ord. 2009-040]**

2. Pre-Application

An application for density bonus shall require the submittal of a pre-application prior to submittal of a Zoning or Building Permit application for purposes of establishing a density bonus determination. **[Ord. 2009-040]**

a. Contents

The pre-application shall be in a form established by the Planning Director, and made available to the public. **[Ord. 2009-040]**

b. Sufficiency Review

The pre-application shall be subject to the provisions of [Art. 2.B.2](#), or [Art. 2.C.2, Sufficiency Review](#). **[Ord. 2009-040]**

c. Compliance

The density bonus shall not be granted until the project is found in compliance with Policy HE 1.5.h. in the Plan. **[Ord. 2009-040]**

d. Density Determination

The Planning Director or designee shall provide a written density determination letter within ten working days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass-transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the Applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this Chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. **[Ord. 2009-040]**

F. Affordability Requirements

1. Sales and Rental Prices of AHP Units

All AHP units shall be offered for sale or rent at an attainable housing cost for the targeted AHP income range (60 percent of AMI or below). The sale and rent prices will be based on the (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures. **[Ord. 2009-040]**

2. Master Covenant

Prior to Final DRO approval, the Applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each AHP unit. An extension of up to 6 additional months to record the Covenant may be requested only in order to secure government funding for the proposed development. **[Ord. 2009-040]**

a. For-Sale Units

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be sold or resold only to an income-qualified purchaser at an attainable housing cost for the targeted AHP income range (60 percent of Area Median Income (AMI) or below). The sale prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD; that these restrictions remain in effect for 15 years recurring from the date of the Certificate of Occupancy for each unit; and that in the event a unit is resold before the 15-year period concludes, a new 15-year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited those set forth below to ensure compliance with the AHP. Every deed for each AHP for-sale housing unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

b. Rental Units

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be rented only to an income-qualified renter at an attainable housing cost for the targeted AHP income range (60 percent of AMI or below). The rental prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures; that these restrictions remain in effect for a period of 30 years (non-recurring) from the date of occupancy of the first AHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or his designee; and shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the AHP. Every deed for a rental development with AHP housing units and every rental agreement for each AHP unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

3. Monitoring and Compliance

At the time of sale, resale, or rent of any AHP unit established pursuant to this program, the seller shall provide the County Administrator, or designee, documentation sufficient to demonstrate compliance with the AHP. Such documentation shall include but not be limited to information regarding the identity and income of all occupants of the AHP unit. The owner or lessee of the AHP unit shall submit to the County Administrator, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the AHP and a copy of any

monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the AHP. [Ord. 2009-040]

4. Enforcement

The County may enforce the requirements of the AHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, and tolling of the 15-year term (for-sale units) or the 30-year term (rental units) of the AHP, or the term required by the funding agency/source if more restrictive. [Ord. 2009-040]

5. Compatibility

The resulting development shall be compatible with surrounding residential land uses, as described herein. [Ord. 2009-040]

G. Annual Report

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the AHP. [Ord. 2009-040]

Section 3 Transfer of Development of Rights (TDRs) – Special Density Program

A. Purpose and Intent

The purpose of this Chapter is to provide for a TDR Program, including the establishment of a TDR Bank, to facilitate both the protection of environmentally sensitive lands, the preservation of agriculture on lands designated as AGR on the FLUA, and to promote orderly growth in PBC. This is accomplished by allowing development rights to be severed from environmentally sensitive lands and lands designated as AGR and transferred to sites where additional development can be accommodated. The TDR program is designed to redistribute population densities, or development potential, to encourage the most appropriate and efficient use of resources, services and facilities.

Further, it is the purpose and intent of this Chapter to provide an alternative to the development of environmentally sensitive lands and lands designated as AGR on the FLUA by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. TDR can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop beyond the existing density, by purchasing development rights. The TDR Program allows a Property Owner to achieve a density bonus by purchasing the increase in density from the PBC TDR Bank, or from a Property Owner with land in a designated sending area, without going through the land use amendment process. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this Chapter. After development rights have been transferred from the sending area to the receiving area, an appropriate conservation easement or an agricultural conservation easement shall be attached to the sending area and recorded in the public records of PBC, restricting future development potential. [Ord. 2005-002] [Ord. 2008-003]

B. Authority

The BCC has the authority to adopt this pursuant to [Art. VIII, § 1, Fla. Const.](#), [the PBC Charter](#), [F.S. § 125.01](#) et seq., and [F.S. § 163.3161](#) et seq.

C. Applicability

This Chapter shall apply to property in unincorporated PBC which is located within designated sending areas, as defined in [Art. 5.G.3.F, Sending Areas](#). Development rights may be transferred from sending areas pursuant to the procedures contained in this Chapter, to property which meets the qualifications to receive such density according to [Art. 5.G, Density Bonus Programs](#), and the standards contained herein. The use of TDR shall be allowed in all residential zoning districts within the U/S Tier and shall be approved pursuant to this Chapter. TDR units may be utilized for all housing types. Additionally, TDR units may be converted to CLF beds subject to the provisions of [Art. 4.B.1.C.1, Congregate Living Facility \(CLF\)](#), whereby the total approved density, including TDR units, is utilized when calculating permissible CLF occupants per [Art. 4.B.1.C.1.d.3\), Type 3 CLF](#).

D. Previous Approvals

All previously approved transfers of development rights, as long as they remain in force, shall remain valid and shall not be affected nor changed by subsequent revisions to the TDR Program.

E. Administration

1. General