ARTICLE V. - WORKFORCE HOUSING DENSITY BONUS PROGRAM

Sec. 17.5-96. - Purpose.

The purpose of this article is to:

1. Create incentives for developers and property owners to provide workforce housing as a part of new development within the City;
2. Assist in implementing the affordable housing goals, policies, and objectives contained in the comprehensive plan of the City;
3. Assist in making affordable housing available for employees of businesses that are or will be located in the City;
4. Maintain balanced housing opportunities in the City to provide housing for people of all income levels;
5. Assist in implementing planning for affordable housing as required by F.S. § 420.907;
6. Implement the workforce housing density bonus and exemption from FAR calculations opportunities established in the land development regulations adopted by the City.


Sec. 17.5-97. - Definitions.

The following words and terms shall have the meanings set forth in article III of this chapter or as otherwise specified herein.

Affordable means that monthly rents or monthly mortgage payments including taxes and insurance and condominium and homeowner association fees do not exceed 30 percent of the median annual gross income for a low-income or moderate-income household. 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 30 percent, then such payments, including revolving and installment debt, shall not exceed 43 percent of the median annual gross income.

Affordable rents means that rents for the workforce housing units are set at or below the rent limit by number of bedrooms in the unit for the 80 percent category and the 120 percent category as published annually by the Florida Housing Finance Corporation for the State Housing Initiatives Partnership (SHIP) Program. Rents are not required to be calculated for each individual renter household according to their actual income.

Area median income (AMI) means the median income for the Tampa/St. Petersburg/Clearwater metropolitan statistical area (MSA) which is adjusted for the household size as calculated and published annually by the United States Department of Housing and Urban Development.

Density bonus means an increase in the number of units on a site to provide an incentive for the construction of workforce housing pursuant to this article and which may be allowed by a zoning district either as additional units, or as additional FAR (floor area ratio, see section 16.60.010).

Development means a project which includes one or more workforce housing bonus density dwelling units on a property utilizing the bonus density allowed by the zoning district.

Development Review Commission (DRC) means the City's development review commission.

Workforce housing means housing with monthly rents or monthly mortgage payments including taxes, insurance, and condominium or association fees, if any, that are affordable to low and moderate-income persons.
Workforce housing bonus density agreement means a written agreement between an applicant for a development and the City containing specific requirements to ensure the continuing affordability of housing included in a development.

Workforce housing bonus density dwelling unit means any housing subject to the covenants or restrictions of this article.


Sec. 17.5-98. - Scope of application; density bonus.

(a) Any development proposing to utilize the density bonus, or the exemption from FAR calculations allowed in a zoning district, as set forth in the City's Land Development Regulations found in chapter 16 of the City Code, shall enter into a workforce housing bonus density agreement which shall irrevocably commit the developer and/or property owner to provide a specific number of workforce housing bonus density dwelling units for a minimum of 30 years on the property subject to the development agreement. The agreement shall provide such protections as the City shall require ensuring that such units meet the requirements of this article.

(b) Workforce housing bonus density dwelling units shall be offered for sale or rent at a price which is affordable to income eligible households as set forth in this section. For each multiple of six workforce housing bonus density dwelling units approved:
   (1) The first unit shall be offered at 80 percent AMI or below.
   (2) The second and third units shall be offered at 120 percent AMI or below.
   (3) The fourth unit shall be offered at 80 percent AMI or below.
   (4) The fifth unit shall be offered at 80 percent AMI or below.
   (5) The sixth unit shall be offered at 120 percent AMI or below.

(c) Developments constructing multiples of six workforce housing bonus density dwelling units shall comply with the requirements in subsections (a) and (b) of this section. For a development constructing a number of workforce housing bonus density dwelling units less than a multiple of six (e.g., five units, 27 units (four multiples of six plus three units), 31 units (five multiples of six plus one unit), etc.), a variance to the foregoing requirements may be requested for that portion of the units less than a multiple of six. Variances may be requested from the Development Review Commission at the time the development is approved; however, the first unit shall always be offered at 80 percent AMI or below. For each set less than six, the units shall be offered in the order set forth above unless a variance to that order is approved.


Sec. 17.5-99. - Application for workforce housing bonus density dwelling units.

(a) Any development proposing to utilize the density bonus allowed in a zoning district shall include in the zoning application such information as is required by the POD to ensure compliance with this article, the land development regulations, and the application and procedures in section 16.70.040 for workforce housing and site plan review.

(b) At a minimum, the application shall include:
   (1) A general description of the development, including whether the development will contain units for rent or for sale;
   (2) The total number of market-rate units and workforce housing bonus density dwelling units;
   (3) The number of bedrooms in each unit;
(4) The square footage of each unit measured from the interior walls of the unit and including heated and unheated areas;

(5) The location in the development of each workforce housing bonus density dwelling unit;

(6) If the construction of dwelling units is to be phased, a phasing plan identifying the number of workforce housing bonus density dwelling units in each phase;

(7) The estimated initial sale price or monthly rent of each unit;

(8) Documentation and plans regarding the interior and exterior appearances, materials, and finishes of the workforce housing bonus density dwelling units if not exactly the same as the other units;

(9) The marketing plan the applicant proposes to implement to promote the sale or rental of the workforce housing bonus density dwelling units within the development to eligible households;

(10) An accurate legal description of the property, which may require a copy of the title insurance policy or deed for the property;

(11) Such other information as may reasonably be required by the POD.


Sec. 17.5-100. - Criteria for location, integration, character of workforce housing bonus density dwelling units.

A development shall comply with the following:

(1) Workforce housing bonus density dwelling units shall be mixed with, and not clustered together or segregated in any way, from the market-rate units;

(2) The number of efficiency, one, two, and three or more bedroom workforce housing bonus density dwelling units shall be proportional to the number of one, two, and three or more bedroom market-rate units (e.g., if 50 percent of the market-rate units are two bedroom, then at least 50 percent of the workforce units shall be two bedroom or larger);

(3) If the development is phased, the phasing plan shall provide for the development of workforce housing bonus density dwelling units proportionately and concurrently with the market-rate units;

(4) The exterior appearance of workforce housing bonus density dwelling units shall be similar to the market-rate units and shall provide exterior building materials and finishes of substantially the same type and quality;

(5) The interior building materials and finishes of the workforce housing bonus density dwelling units shall be of substantially the same type and quality as market-rate;

(6) All workforce housing bonus density dwelling units shall comply with the building and construction requirements of article IV of this chapter (the City's Visitability Ordinance);

(7) The minimum size for workforce housing bonus density dwelling units shall be 375 square feet for efficiency units, 500 square feet for one bedroom units, 750 square feet for two bedroom units and 200 additional square feet for each additional bedroom;

(8) Variances to the foregoing requirements may be requested from the Development Review Commission at the time the development is approved. A request for a variance to a site plan with workforce housing bonus density units may be made to the Development Review Commission.

Sec. 17.5-101. - Workforce housing bonus density agreement.

(a) Prior to the approval of any development order or permit (including the issuance of a building permit) for any development in which a density bonus is requested, the applicant shall enter into a workforce housing bonus density agreement with the City. The agreement shall set forth the commitments and obligations of the applicant to ensure compliance with this article.

(b) The applicant shall execute any and all documents deemed necessary by the City in a form to be established by the City, including, without limitation, restrictive covenants, protective covenants, deed restrictions, and related instruments (including requirements for income qualification for tenants of rental units) to ensure the continued compliance with this article.

(c) Restrictive covenants or deed restrictions and other required documents shall specify that the title to any workforce housing bonus density dwelling units shall only be transferred with prior written approval by the City. The sole purpose of this approval shall be to ensure that any transfer complies with the requirements of this article and other Codes and development orders or permits and conditions thereof. Such written approval shall be executed by the City Administrator and approved as to form by the City Attorney or his designee before it is effective.


Sec. 17.5-102. - Affordability controls.

(a) The POD shall promulgate such forms and rules as are necessary to implement this article. On an annual basis, the POD shall make available copies of the U.S. Department of Housing and Urban Development household income limits and rental limits applicable to Workforce Housing Bonus Density Dwelling Units.

(b) The owner of a development consisting of rental workforce housing bonus density dwelling units shall submit an annual report before June 1 of each year, for the preceding calendar year, to the City identifying which units are workforce housing bonus density dwelling units, the monthly rent for each unit, vacancy information for each month for the prior year, monthly income for tenants of each units, and other information as required by the City. The annual report shall contain information sufficient to determine whether tenants met the requirements of this article.

(c) For any sale of workforce housing bonus density dwelling units, the purchaser shall execute and record such documentation as required by the workforce housing bonus density agreement and this article. Such documentation shall include, at a minimum, each of the following:

(1) A workforce housing bonus density agreement for renter occupied workforce housing bonus density dwelling units. Such units shall be occupied by income eligible households for a period of 30 years from the date of the initial certificate of occupancy.

(2) A workforce housing bonus density agreement for owner occupied workforce housing bonus density dwelling units. Such units shall be conveyed subject to restrictions that shall ensure compliance with this article and the workforce housing bonus density agreement for income eligible households for a period of 30 years from the date of the first sale of each unit.

(d) The owner of workforce housing bonus density dwelling units which are for lease shall execute and record such documents as are required by the workforce housing bonus density agreement and this article. No lease shall be executed until the household income has been verified in writing by the City. Such documentation shall include, at a minimum, the following information:

(1) The workforce housing bonus density dwelling units shall be leased to and occupied by income eligible households.

(2) The workforce housing bonus density dwelling units shall be leased at rent levels affordable to income eligible households for a period of 30 years from the date of the initial certificate of occupancy. Maximum rents for workforce housing units are to be set at or below the 80 percent
and 120 percent rent limit by number of bedrooms as published annually by the Florida Housing Finance Corporation for the State Housing Initiatives Partnership (SHIP) Program. Rents may be set below the maximum as market conditions may require.

(3) Subleasing of workforce housing bonus density dwelling units is not allowed without the express written consent of the POD which shall not be unreasonably withheld if the sublessee and lease meet the requirements of this article.


Sec. 17.5-103. - Increases in income.

(a) With respect to an 80 percent of AMI WFH rental unit, the household's annual income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. While occupying the WFH rental unit, if the income of the household increases (but does not increase to a level above 120 percent AMI), then the 80 percent unit would not need to be replaced by another comparable unit and the tenants rent is not adjusted. Once the tenant's income rises above the 120 percent AMI threshold, then the unit will be considered a 120 percent unit and the next available unit of the same bedroom size shall be rented to an 80 percent AMI household at the 80 percent rent referenced in section 17.5-102 (d)(2).

(b) With respect to a 120 percent of AMI WFH rental unit, the household's annual income at the time of initial occupancy may not exceed 120 percent of the area's median income adjusted for family size. While occupying the WFH rental unit, if the income of the household increases (but does not increase to a level above 150 percent AMI), then the 120 percent unit would not need to be replaced by another comparable unit and the tenants rent is not adjusted. Once the tenant's income rises above the 150 percent AMI threshold, then the unit will be considered a market rate unit and the next available unit of the same bedroom size shall be rented to an 120 percent AMI household at the 120 percent rent referenced in section 17.5-102 (d)(2).

(Ord. No. 339-H, § 2, 8-23-2018)

Editor's note— Ord. No. 339-H, § 2, adopted August 23, 2018, renumbered § 17.5-103 as 17.5-104.

Sec. 17.5-104. - Enforcement; violations.

(a) It is a violation of this article to fail to file an annual report on or before June 1 of each year. Any violation shall be subject to daily fines by the Code Enforcement Board.

(b) It is a violation of this article to rent, sell or initially occupy any workforce housing bonus density dwelling unit if the household is not income eligible as required by this article.

(c) It is a violation of this article to knowingly give false or misleading information relating to this program to any City employee.

(d) It is a violation of this article for any person to participate, in any way, in any sale of a unit or lease of a unit which violates any provision of this article or the workforce housing bonus density agreement. The term "participation" includes any act, or failure to act, of the buyer, seller, lender, realtor, title insurer, surveyor, or any other person which allows a violation of this article or the workforce housing bonus density agreement to occur. The fine for each violation of this article shall be $500.00. Each day shall be a separate violation.

(e) The City may enforce this article and the terms of a workforce housing bonus density agreement by request for injunction. If the City obtains an injunction, the defendant shall pay all costs incurred by the City in obtaining the injunction, including, but not limited to, attorney's fees.
(f) Notwithstanding the foregoing, the City may use any lawful method to enforce this article and the terms of a workforce housing bonus density agreement, including those specifically identified in section 1-7.


Editor's note—See editor's note, § 17.5-103.