



**ORDINANCE NO. 2014 -001**

**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE,  
CALIFORNIA TO ADD CHAPTER 20.65 – DENSITY BONUS LAW OF THE DEL NORTE  
COUNTY CODE**

The Board of Supervisors of the County of Del Norte do ordain as follows:

**SECTION 1.** The Board of Supervisors of the County of Del Norte hereby finds and declares as follows:

- A. California Government Code Section 65915-65918 (“State Density Bonus Law”) requires all cities and counties to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented.
- B. The proposed Density Bonus Law Ordinance is intended to fulfill the mandated duty imposed on the County of Del Norte by Government Code Section 65915 by providing the method by which density bonuses, incentives, and waivers, as required by Government Code Section 65915, will be implemented by the County of Del Norte.

**SECTION 2. CODE AMENDMENT.** Chapter 20.65 [Density Bonus Law] is hereby added to Chapter 20 Zoning of the Del Norte County Code to read as follows:

<b>Section 20.65.010</b>	<b>Purpose</b>
<b>Section 20.65.020</b>	<b>Definitions</b>
<b>Section 20.65.030</b>	<b>Applicability</b>
<b>Section 20.65.040</b>	<b>Density Bonus</b>
<b>Section 20.65.050</b>	<b>Application Requirements</b>
<b>Section 20.65.060</b>	<b>Incentives</b>
<b>Section 20.65.070</b>	<b>Discretionary Approval Authority Retained</b>
<b>Section 20.65.080</b>	<b>Waivers</b>
<b>Section 20.65.090</b>	<b>Affordable Housing Agreement</b>
<b>Section 20.65.100</b>	<b>Design and Quality Review</b>

**Section 20.65.010 Purpose**

The purpose of this Chapter is to adopt an ordinance that specifies how compliance with Government Code Section 65915-65918 (“State Density Bonus Law”) will be implemented in an effort to encourage the production of low income housing units in developments proposed within the County.

**Section 20.65.020 Definitions**

Unless otherwise specified in this chapter, the definitions found in state density bonus law shall apply to the terms contained herein.

### **Section 20.65.030 Applicability**

This chapter shall to all zoning districts, including mixed use zoning districts, where residential developments of five (5) or more dwelling units are proposed and where the applicant seeks and agrees to provide, low, very low, senior and moderate income units in threshold amounts specified in the state density bonus law such that the resulting density is beyond that which is permitted by the applicable zoning. This chapter and state density bonus shall apply only to the residential component of a mixed use project and shall not operate to increase the allowable density of the nonresidential component of any proposed project.

### **Section 20.65.040 Density Bonus**

A density bonus for housing development means a density increase over otherwise maximum allowable residential density under the applicable zoning and land use designation on the date the application is deemed complete. The amount of the allowable density bonus shall be calculated as provided in state density bonus law and may not combine density bonuses from different income categories to achieve a larger density bonus.

### **Section 20.65.050 Application requirements**

(a) Any applicant requesting a density bonus, incentive(s) and/or waiver(s) pursuant to the state density bonus law shall provide the county with a written proposal. The proposal shall be submitted prior to or concurrently with filing the building permit application or planning permit application (whichever is required first) for the housing development and shall be processed in conjunction with the underlying application.

(b) The proposal for a density bonus, incentive(s) and/or waiver(s) pursuant to the state density bonus law shall include the following information:

- (1) Requested Density Bonus. The specific requested density bonus proposal shall provide evidence that the project meets the thresholds for state density bonus law. The proposal shall also include calculations showing the maximum base density, the number/percentage of affordable units and identification of the income level at which such units will be restricted, additional market rate units resulting from the density bonus allowable under state density bonus law and the resulting unit per acre density. The density bonus units shall not be included in determining the percentage of base units that qualify a project for a density bonus pursuant to state density bonus law.
- (2) Requested incentive(s). The request for particular incentive(s) shall include a pro forma or other report evidencing that the requested incentive(s) results in identifiable, financially sufficient and actual cost reductions that are necessary to make the housing units economically feasible. The report shall be sufficiently detailed to allow the county to verify its conclusions.
- (3) Requested Waiver(s). The written proposal shall include an explanation of the waiver(s) of development standards requested and why they are necessary to make the construction of the project physically possible. Any requested waiver(s) shall not exceed the limitations provided by Section 20.65.080 and to the extent such limitations are exceeded will be considered as a request for an incentive.

(c) At their sole discretion the Board of Supervisors may approve a density bonus and/or incentive(s) in accordance with state density bonus law for a project that does not maximize the underlying base zoning density. Additionally, nothing herein prevents the county from granting a greater density bonus and additional incentives or waivers than that provided for herein, or from providing a lesser density bonus and fewer incentives and waivers than that provided for

herein when the housing development does not meet the minimum thresholds (see application procedures).

#### **Section 20.65.060 Incentives**

(a) The number of incentives granted shall be based upon the number the applicant is entitled to pursuant to the state density bonus law.

(b) An incentive includes a reduction in site development standards for a modification of zoning requirements or architectural requirements that result in identifiable, financially sufficient and actual cost reductions. An incentive may be the approval of mixed use zoning (e.g., commercial) in conjunction with a housing project if the mixed use will reduce the cost of the housing development and is compatible with the housing project.

(c) A requested incentive may be denied only for those reasons provided in the state density bonus law. Denial of an incentive is a separate and distinct act from a decision to deny or approve the entirety of the project.

#### **Section 20.65.070 Discretionary approval authority retained**

The granting of a density bonus or incentive(s) shall not be interpreted in and of itself to require a general plan amendment, zoning change, or other discretionary approval. If an incentive would otherwise trigger one of these approvals, when it is granted as an incentive, no general plan amendment, zoning change or other discretionary approval is required. However, if the base project without the incentive requires a general plan amendment, zoning change, or other discretionary approval, the county retains discretion to make or not make the required findings for approval of the base project.

#### **Section 20.65.080 Waivers**

A waiver is a modification to a development standard such that to construct at the increased density would be physically impossible. Development standards include, but are not limited to, a height limitation, a setback requirement, an on-site open space requirement, or a parking ratio that applies to a residential development. An applicant may request a waiver of any development standard to make the project physically possible to construct at the increased density. To be entitled to the requested waiver the applicant must show that without the waiver construction of the project would be physically precluded. There is no limit on the number of waivers.

#### **Section 20.65.090 Affordable housing agreement**

Prior to project approval, the applicant shall enter into an affordable housing agreement with the county to be executed by the county administrative officer without review by the planning commission or board of supervisors if the underlying application does not require review and and/or approval by those bodies, to the satisfaction of the county counsel guaranteeing the affordability of the rental or ownership units for a minimum of thirty (30) years and identifying the type, size and location of each affordable unit. Such affordable housing agreement shall be recorded in the Del Norte County recorder's office.

#### **Section 20.65.100 Design and quality**

(a) Affordable units must be constructed concurrently with market rate units and shall be integrated into the project. Affordable units shall be of equal design and quality as the market rate units. Exteriors, including architecture and elevations, and floor plans of the affordable units shall be similar to the market rate units. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or interior quality as determined by the building official. The number of bedrooms in the affordable units shall be consistent with the mix of market rate units.

(b) Parking standards shall be modified as allowable under state density bonus law and anything beyond those standards shall be considered a request for an incentive.

**SECTION 3. CLASSIFICATION.** This ordinance is considered of a general and permanent nature and is classified as a codified ordinance.

**SECTION 4. SEVERABILITY.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Board of Supervisors intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 5. CEQA DETERMINATION.** The Board of Supervisors hereby determines that the adoption of this ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines section 15061(b)(3) because the adoption of this ordinance does not have the potential for causing a significant effect on the environment.

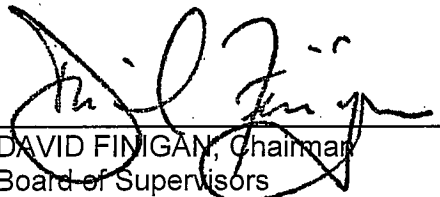
**SECTION 6. EFFECTIVE DATE.** This ordinance shall become effective 30 days following publication of its adoption.

PASSED AND ADOPTED this 11<sup>th</sup> day of February, 2014 by the Board of Supervisors of the County of Del Norte by the following vote:

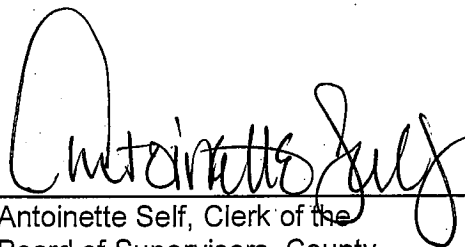
AYES: Supervisors Gitlin, Hemmingsen, Finigan, McClure and Sullivan.

NOES: None.

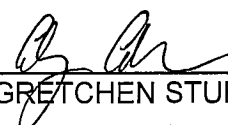
ABSENT: None.

  
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DAVID FINIGAN, Chairman  
Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Antoinette Self, Clerk of the  
Board of Supervisors, County  
of Del Norte, State of California

APPROVED AS TO FORM:

  
\_\_\_\_\_  
GRETCHEN STUHR, County Counsel

**DEL NORTE COUNTY  
BOARD OF SUPERVISORS**

**SUMMARY OF ADOPTED ORDINANCE 2014-001**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE, CALIFORNIA TO ADD CHAPTER 20.65 – DENSITY BONUS LAW OF THE DEL NORTE COUNTY CODE**

The following is a summary of an Ordinance adopted at the February 11, 2014 Board of Supervisors' meeting, Regular Session, by the following polled vote:

**Motion:** Move to approve  
**Move:** Michael Sullivan  
**Second:** Roger Gitlin

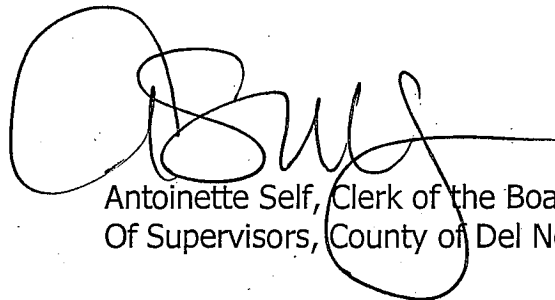
**Vote Yea:** 5 Michael Sullivan, Roger Gitlin, Gerry Hemmingsen, David Finigan, Martha McClure  
**Vote Nay:** 0 None  
**Vote Abstain:** 0 None

This ordinance consists of six (6) sections and addresses the addition of Chapter 20.65 – Density Bonus law to the Del Norte County Code.

A full copy of the ordinance is available for review in the Board of Supervisors office at 981 H Street, Suite 200, Crescent City, CA during normal business hours.

Dated: February 14, 2014

Publish: February 18, 2014



Antoinette Self, Clerk of the Board  
Of Supervisors, County of Del Norte