



ORDINANCE NO. ORD24-001

**AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS
ESTABLISHING TITLE 20, "CHAPTER 20.20 – DENSITY BONUS ORDINANCE," IN
THE MONO COUNTY CODE TO IMPLEMENT THE STATE DENSITY BONUS LAW**

WHEREAS, the State Density Bonus Law (DBL), currently Government Code §65915, et seq., is a state mandate with which the County must comply; and

WHEREAS, the DBL allows developers to obtain more favorable local development requirements in exchange for offering to build or donate and for affordable or senior units; and

WHEREAS, the intent of the DBL is to help make the development of affordable and senior housing economically feasible and includes tools beyond increased density such as reduced parking requirements, waiver requests, and concessions for deviations from development standards such as setbacks, height requirements, etc.; and

WHEREAS, Mono County General Plan Land Use Element §04.100.C. currently codifies compliance with the DBL; and

WHEREAS, this Ordinance, as set forth in Exhibit A, provides detail and guidance to assist with the implementation of the DBL in compliance with state law and General Plan Land Use Element §04.100.C., such as definitions of terms, application procedures and required information, standards for affordable units, and affordability terms; and

WHEREAS, this Ordinance is not a project under CEQA Guidelines §15378(b)(2) because it establishes general policy and procedures for compliance with the State Density Bonus Law, and development projects utilizing the ordinance are separately subject to CEQA compliance.

NOW, THEREFORE, BE IT ORDAINED that the Mono County Board of Supervisors hereby finds as follows:

SECTION ONE: That Chapter 20.20 of the Mono County Code entitled "Density Bonus Ordinance" is established to read as set forth in Exhibit A attached hereto and incorporated herein by this reference.

SECTION TWO: This ordinance shall become effective 30 days from the date of its adoption and final passage. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance in the manner prescribed by Government Code section 25124 no later than 15 days after the date of this ordinance’s adoption and final passage. If the Clerk fails to publish this ordinance within said 15-day period, then the ordinance shall not take effect until 60 days after the date of publication.

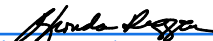
APPROVED AND ADOPTED this 16th day of January 2024, by the following vote:

AYES : Supervisors Duggan, Gardner, Kreitz, Peters, and Salcido.

NOES : None.

ABSENT : None.

ABSTAIN : None.


Rhonda Duggan (Jan 17, 2024 10:27 PST)


Rhonda Duggan, Chair

ATTEST:



Clerk of the Board

APPROVED AS TO FORM:


Stacey Simon (Jan 17, 2024 10:26 PST)

County Counsel

EXHIBIT A TO ORD24-001, DENSITY BONUS ORDINANCE

Chapter 20.20 – Density Bonus Ordinance

20.20.010. Title.

This chapter shall be known and may be cited as the Mono County Density Bonus Ordinance.

20.20.020. Definitions.

As used in this chapter, the following terms shall have the following meanings:

- A. "Concession" shall have the same meaning as the term "concession or incentive" pursuant to the state density bonus law, as currently defined in Government Code section 65915, subdivision (k).
- B. "Density bonus" means a density increase over the otherwise maximum allowable residential density for a housing development as of the date of application by the applicant, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.
- C. "Housing development" means any of the following:
 - 1. A development project for five or more residential units, including a mixed-use development;
 - 2. A subdivision consisting of residential units or unimproved residential lots;
 - 3. A common interest development as defined in section 4100 of the Civil Code consisting of residential units or unimproved residential lots;
 - 4. A project to convert and substantially rehabilitate an existing commercial building to residential use; or
 - 5. The substantial rehabilitation of an existing structure designed for human habitation that has been divided into two or more legally created independent living quarters, where the result of the rehabilitation would be a net increase in available residential units.
- D. Identifiable and Actual Cost Reduction to Provide for Affordable Housing Cost
 - 1. An "identifiable and actual cost reduction to provide for affordable housing cost" means a reasonably quantifiable cost reduction that would be achieved for a housing development through a concession unless it can be shown by credible, substantial evidence that total cost reductions resulting from all proposed concessions would substantially exceed:

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- a. In the case of a rental housing development, the approximate difference between the amount of the debt service that the development's affordable units will support and the cost to construct those units; and
 - b. In the case of a for-sale housing development, the approximate difference between the combined total restricted sales prices of the affordable units in the housing development and the combined unrestricted value of those units.
2. Notwithstanding the foregoing definition, an "identifiable and actual cost reduction to provide for affordable housing cost" shall be deemed to exist whenever the applicant demonstrates by credible, substantial evidence that a project at the proposed density and with the proposed level of affordability would be economically infeasible without the requested concession or concessions because of the affordable component, but would be economically feasible with the inclusion of the requested concession or concessions.
- E. "Maximum allowable residential density" means the maximum residential density allowed for a housing development under applicable county policies. In case of any conflict between the land use element of the general plan and any zoning regulation, if applicable, the greater density shall prevail. For purposes of this definition, residential density shall be calculated based upon the gross acreage of a housing development, regardless of how it may be calculated by the county for other purposes. If a housing development is proposed to be located on any property that includes a parcel or parcels for which no maximum density is established, then the maximum allowable residential density for the housing development shall be the base density as established by the applicant pursuant to Section 20.20.050.C of this code.
- G. "Reasonable documentation to establish eligibility for a concession" means a credible written explanation or other documentation demonstrating to the reasonable satisfaction of the community development director or designee that a concession will achieve an identifiable and actual cost reduction to provide for affordable housing cost.
- H. "State density bonus law" means Government Code section 65915, et seq., as the same may be renumbered or amended from time to time.

20.20.030 Application of this chapter.

This chapter shall apply to any housing development that is entitled to receive a density bonus pursuant to the state density bonus law.

20.20.040 Adoption of state density bonus law.

The state density bonus law is hereby adopted by reference.

20.20.050 Application Procedures.

- A. A density bonus request shall be considered by the approval authority for the housing development. An applicant for a density bonus pursuant to the state density bonus law shall submit a density bonus report together with the application for the housing development. The community development director or designee shall ensure that all application checklists made available by the county to applicants for housing development projects contain a reference to this section or attach a density bonus report form that applicants may use. The density bonus report form shall contain the following information:
1. The basis under the state density bonus law on which the applicant is claiming a density bonus;
 2. An identification of the maximum density bonus to which the housing development is entitled on the basis requested;
 3. An identification of any concession(s) sought and reasonable documentation to establish eligibility for the concession(s);
 4. An identification of any waiver(s) sought;
 5. If the housing development is proposed on any property that includes a parcel or parcels with existing dwelling units or dwelling units that have been vacated or demolished in the five-year period preceding the application, an explanation of how the project meets the state density bonus law's replacement housing requirements, if applicable, currently codified at Government Code section 65915, subdivision (c)(3); and
 6. An identification of any parking reduction sought pursuant to the state density bonus law.
- B. If the applicant's proposal for concessions or waivers changes after the application is complete, the applicant shall submit an amended density bonus report that includes all the information required under subdivision (A) above.
- C. If the housing development is proposed to be located on any property that includes a parcel or parcels for which no maximum density is established by the general plan or zoning, then the applicant shall determine a base density for the housing development by determining the maximum number of units that could be provided by a hypothetical housing development consistent with all applicable development standards. The average unit size for the hypothetical housing development shall be at least as large as the average unit size for the housing development proposed. The density bonus report for the housing development shall include calculations

and rough drawings for the hypothetical housing development used to determine the base density.

- D. If the density bonus report submitted for a housing development is incomplete, county planning staff shall provide the applicant notice of such incompleteness pursuant to the Permit Streamlining Act, Government Code section 65920, et seq.
- E. If it is unclear why any development standard from which a waiver is sought would have the effect of physically precluding the construction of the housing development at the density and with any concession(s) or parking ratio reduction sought, then county planning staff shall be entitled to request an explanation before or after the application for the housing development project is accepted as complete, pursuant to Government Code section 65944. This can be done, for example, by identifying on a plan sheet the proposed unit(s) or portions of proposed unit(s) that would have to be eliminated to comply with the development standard.
- F. If a proposed housing development would be inconsistent with the state density bonus law, then county planning staff shall provide the applicant notice of such inconsistency pursuant to the Housing Accountability Act, Government Code section 65589.5.

20.20.060 Standards.

Unless the approval authority grants an exception to any of these requirements for good cause shown, affordable units provided to meet state density bonus law requirements shall be comparable in size and material to market rate units in the same housing development, shall be dispersed throughout the housing development, and shall be indistinguishable from market rate units from the exterior of the units.

20.20.070 Affordable housing agreements.

- A. Affordable rental units provided by a housing development to meet the requirements of this chapter shall be subject to an affordable housing agreement recorded against the housing development with a 55-year term commencing upon the issuance of certificates of occupancy; provided that a longer period shall apply if required by another public financing source or law. The form of the affordable housing agreement shall be approved by county counsel.
- B. For-sale affordable units provided by a housing development to meet both the requirements of the state density bonus law and applicable housing mitigation requirements shall be subject to a recorded affordable housing agreement approved as to form by county counsel. The affordable housing agreement shall, at a minimum, require that:

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1. Each for-sale affordable unit shall be sold to an income qualified household at an affordable housing cost, as defined in the affordable housing agreement; and
 2. Each for-sale affordable unit shall be sold to the initial purchaser subject to a recorded resale restriction agreement approved as to form by county counsel, which shall:
 - a. Have a 45-year term or a longer term if required by another public financing source or law;
 - b. Restrict the resale price of the unit to an affordable housing cost, as defined in the resale restriction agreement; and
 - c. Require that if the unit is sold to a subsequent purchaser during the term of the agreement, the purchaser shall purchase the unit subject to a resale restriction agreement approved as to form by county counsel with a new 45-year term or a longer term if required by another public financing source or law.
- C. Unless otherwise required by another public financing source or law, a for-sale unit provided to meet state density bonus law requirements that is not necessary to meet the county's housing mitigation requirements shall be sold to an income qualified household subject to an equity sharing agreement as set forth in the state density bonus law.
- D. Nothing herein shall be construed to prevent a for-sale affordable unit from being sold to a nonprofit housing corporation when expressly authorized by state law.