

Attachment C

Excerpts from the ordinance
showing changes made since
June 21, 2011 (when the Board
of Supervisors reviewed the
previous draft)

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SECTION 25. Section 20.12.050 of the Monterey County Code is amended to read as follows:

20.12.050 CONDITIONAL USES ALLOWED, COASTAL DEVELOPMENT PERMIT REQUIRED IN EACH CASE (Chapter 20.70) UNLESS EXEMPT (Section 20.70.120)

- A. Any residential use, except the first single family dwelling on a vacant lot, exceeding 2 dwelling units/acre, gross, and not exceeding four units, total;
- B. Rooming houses and boarding houses (ZA);
- C. Resthomes (ZA);
- D. Public and quasi-public uses including churches, cemeteries, parks, playgrounds, schools, public safety facilities, public utility facilities, but not including uses of a non-residential nature such as jails, rehabilitation centers, detention facilities, or corporation yards;
- E. Parking lots used in conjunction to an adjoining commercial or retail use (ZA);
- F. Legal nonconforming use of a portion of a structure extended throughout the structure (ZA);
- G. Legal nonconforming use changed to a use of a similar or more restricted nature;
- H. Bed and breakfast facilities, pursuant to Section 20.64.100;
- I. Commercial and noncommercial wind energy conversion systems;
- J. Ridgeline development;
- K. Water system facilities including wells and storage tanks serving 15 or more service connections;
- L. Reserved;
- M. Assemblages of people, such as carnivals, festivals, races and circuses not exceeding 10 days and not involving construction of permanent facilities (ZA);
- N. Accessory structures and uses prior to establishment of main use or structure (ZA);
- O. Large family day care homes;
- P. Cottage industries, pursuant to Section 20.64.095 (ZA);
- Q. Large Residential Care Facility;
- R. Detached structures accessory to any conditional use;
- S. Planned Unit Developments;
- T. Conditional Certificates of Compliance;
- U. Other residential uses of a similar nature, density and intensity as those listed in this Section determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and applicable land use plan;
- V. Condominiums;
- W. Mobile Home Parks, pursuant to Section 20.64.210 (Not in Del Monte Forest);
- X. Subdivisions;
- Y. Lot Line Adjustments;
- Z. ~~Golf Courses (in Del Monte Forest only). [Repealed]~~
- AA. Wireless communication facilities, pursuant to Section 20.64.310;
- BB. Supportive Housing contained within the housing types of this Section;
- CC. Transitional Housing or Transitional Housing Development contained within the housing types of this Section.

SECTION 27. Section 20.12.050 of the Monterey County Code is amended to read as follows:

20.14.050 CONDITIONAL USES ALLOWED, COASTAL DEVELOPMENT PERMIT REQUIRED IN EACH CASE (Chapter 20.70) UNLESS EXEMPT (Section 20.70.120)

- A. Additional residential units to a maximum of 4 on any lot and not exceeding the zoning density of the property;
- B. Public and quasi-public uses including churches, cemeteries, parks, playgrounds, schools, public safety facilities, public utility facilities but not including uses of a non-residential nature such as jails, rehabilitation centers, detention facilities or corporation yards;
- C. Commercial kennels (ZA) (Not in DMF);
- D. ~~Golf Courses (in Del Monte Forest only)~~[Repealed];
- E. Legal nonconforming use of a portion of the structure extended throughout the structure (ZA);
- F. Legal nonconforming use changed to a use of a similar or more restricted nature;
- G. Bed and breakfast facilities, pursuant to Section 20.64.100;
- H. Commercial and noncommercial wind energy conversion systems;
- I. [Repealed];
- J. Ridgeline development;
- K. Conversion of uncultivated land to cultivated agricultural use on land with 15% - 25% slopes (North County Area Plan only);
- L. [Repealed];
- M. [Repealed];
- N. Keeping and raising of mink (ZA);
- O. Any building, structure, or enclosure for the purpose of maintaining a zoo or zoological garden or for the purpose of raising, maintaining or exhibiting any wild animal or animals;
- P. Water system facilities including wells and storage tanks serving 15 or more service connections;
- Q. Reserved;
- R. Assemblages of people, such as carnivals, festivals, races and circuses, not exceeding 10 days and not involving construction of permanent facilities (ZA);
- S. Non-habitable accessory structures and uses prior to establishment of main use or structure (ZA);
- T. Large family day care facilities (ZA);
- U. Cottage industries, pursuant to Section 20.64.095 (ZA);
- V. Reserved;
- W. Public stables on a minimum of ten acres (ZA);
- X. Mobile Home Parks, pursuant to Section 20.64.210 (Not in Del Monte Forest);
- Y. Conditional Certificates of Compliance;
- Z. Other residential uses of a similar character, density and intensity to those uses listed in this Section determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and the applicable land use plan;
- AA. Subdivisions;
- BB. Lot Line Adjustments;

- CC. Large Residential Care Facility;
- DD. Supportive Housing contained within the housing types of this Section;
- EE. Transitional Housing or Transitional Housing Development contained within the housing types of this Section.

SECTION 38. Chapter 20.61 is added to the Monterey County Code to read as follows:

Chapter 20.61
REQUESTS FOR REASONABLE ACCOMMODATION

Sections:

- 20.61.010 Purpose.**
- 20.61.020 Applicability.**
- 20.61.030 Appropriate Authority.**
- 20.61.040 Application.**
- 20.61.050 Action by Appropriate Authority.**
- 20.61.060 Revocation.**
- 20.61.070 Effect.**

20.61.010 Purpose.

The purpose of this Chapter is to provide a procedure for the County to modify or waive requirements of this Title in order to provide a Reasonable Accommodation to individuals with a disability if necessary to eliminate barriers to housing opportunities.

20.61.020 Applicability.

- A. The provisions of this Chapter shall apply to all housing types in any zoning district within the unincorporated coastal areas of the County.
- B. This Chapter is intended to apply to any person who requires a reasonable accommodation because of a disability.
- C. A request for Reasonable Accommodation may include, but it is not limited to, a modification or exception to the rules, standards and practices of this Title for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of his or her choice.

20.61.030 Appropriate Authority.

The Director of Planning is the Appropriate Authority to review and decide on all Requests for Reasonable Accommodation, unless said Reasonable Accommodation application is combined with another permit pursuant to Chapter 20.82 (Combined Development Permits) of this Title.

20.61.040 Application.

- A. A request for Reasonable Accommodation may be made by any person with a disability, his or her representative, or any entity such as a developer or provider of housing for

individuals with disabilities, when the application of this Title acts as a barrier to fair housing opportunities.

B. A Request for a Reasonable Accommodation shall be made in writing on a form prescribed by the Director of Planning and filed with the Director of Planning and shall contain the following information:

1. Name, mailing address, contact information of individual(s) requesting Reasonable Accommodation;
2. Name, Mailing Address, Contact Information of property owner;
3. Physical address and Assessor's Parcel Number of the property for which the Reasonable Accommodation is requested;
4. The current actual use of the property;
5. A statement setting forth the basis for the request, including verifiable third-party documentation of disability status.
6. The zoning code regulation from which Reasonable Accommodation is being requested, including an explanation of how application of the zoning code requirement precludes a reasonable accommodation;
7. Reason that the requested Reasonable Accommodation is necessary for the individual(s) with the disability to use and enjoy the dwelling; and
8. Any such additional information as the Director of Planning may request consistent with fair housing laws to evaluate the request for Reasonable Accommodation.

20.61.050 Action by Appropriate Authority.

A. A decision by the Appropriate Authority for a Reasonable Accommodation, not combined with another permit pursuant to Chapter 20.82 (Combined Development Permits) of this Title, shall be rendered in writing within thirty (30) days of the date the application is filed. If necessary to reach a determination on the request for Reasonable Accommodation, the Appropriate Authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stopped until the applicant provides the information requested.

B. A decision by the Appropriate Authority for a Reasonable Accommodation combined with another permit pursuant to Chapter 20.82 (Combined Development Permits) shall have the same timeline for a decision rendered by the Appropriate Authority as that of the concurrent discretionary permit.

C. The Appropriate Authority in its consideration of a request for Reasonable Accommodation may grant, deny, or modify, in whole or in part, said request for Reasonable Accommodation; ~~subject to making the following findings based on substantial evidence~~ A grant of Reasonable Accommodation shall require the following findings, based on substantial evidence:

1. The housing, which is the subject of the request for Reasonable Accommodation, will be used by an individual(s) with a disability protected under fair housing laws;
2. The requested accommodation is necessary to make housing available to an individual with a disability protected under the fair housing laws;
3. The requested accommodation would not impose an undue financial or administrative burden on the County;

4. The requested accommodation is the minimum necessary to address the circumstances;

5. The Reasonable Accommodation would not negatively impact property;

6. Alternative accommodations which may provide an equivalent level of benefit do not exist; and

7. The accommodation minimizes inconsistencies with and will not require a fundamental alteration of the County's Local Coastal Program.

D. In no case shall the Appropriate Authority apply the requirements of this section in a manner that is inconsistent with the federal Fair Housing Act.

E. If granted, the Reasonable Accommodation shall run with the land, unless the Appropriate Authority determines at the time of granting the Reasonable Accommodation that the accommodation should be of a temporary nature and requires that it be removed at a specified time or event.

EF. In granting a request for Reasonable Accommodation, the Appropriate Authority may impose any conditions of approval which he or she determines are necessary to make the findings required by Section 20.61.050.C.

FG. Notwithstanding Section 20.90.120, if there is an outstanding violation of this Title involving the property upon which there is a pending Request for Reasonable Accommodation, the County may issue a Reasonable Accommodation, not associated with a discretionary permit, if necessary to provide an individual with a disability fair housing opportunities in compliance with this Section and provided that the existing violation does not pose a risk to health and safety. The granting of the Reasonable Accommodation does not preclude the County from pursuing resolution of the violation, including code enforcement action.

GH. An appeal to the Board of Supervisors from the action of the Appropriate Authority may be taken by the applicant if the request for Reasonable Accommodation was not combined with another permit. If the Request for Reasonable Accommodation was combined with another permit pursuant to Chapter 20.82 (Combined Development Permit), then an appeal may be taken pursuant to the requirements for appeals of actions on Combined Development Permits.

20.61.060 Revocation.

A. Where one or more of the conditions of a Reasonable Accommodation have not been, or are not being complied with, or when a Reasonable Accommodation was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant, the Appropriate Authority may revoke or modify the Reasonable Accommodation following public hearing pursuant to Chapter 20.84 of this Title.

B. An appeal may be taken from such revocation or modification pursuant to Chapter 20.86.

20.61.070 Effect.

No building permit shall be issued nor any structure constructed otherwise than in accordance with the conditions and terms of the Reasonable Accommodation granted, nor until ten days after the mailing of notice of granting of such Reasonable Accommodation by the Appropriate Authority, or by the Appeal Authority in the event of an appeal.

SECTION 40. Section 20.64.030 of the Monterey County Code is amended to read as follows:

20.64.030 REGULATIONS FOR ACCESSORY DWELLING UNITS.

A. Purpose: The purpose of this Section is to establish the regulations, standards and circumstances under which an Accessory Dwelling Unit, accessory to the main residence on a lot may, be permitted. .

B. Applicability: The provisions of this Section are applicable in the HDR, MDR, LDR, RDR, and WSC zoning districts.

C. Permit Requirement: Accessory Dwelling Units shall require a Coastal Administrative Permit, or Coastal Development Permit if applicable, in all cases due to significant water, sewer, habitat, visual, and traffic resource constraints that exist within the Monterey County Coastal Zone. ~~A public hearing shall not be required to consider a Coastal Administrative Permit for an Accessory Dwelling Unit.~~ In non-residential zoning districts such as the Watershed and Scenic Conservation Zoning District, Accessory Dwelling Units shall require a Coastal Development Permit.

D. Accessory Dwelling Units Prohibited in certain areas: Accessory Dwelling Units would pose a hazard to public health, safety and welfare in certain unincorporated coastal areas of the County because of known infrastructure and resource limitations. These infrastructure limitations are recognized in the Land Use Plans for the North County, Big Sur, Carmel Area, and Del Monte Forest (See North County Land Use Plan Section 4.2, Big Sur Land Use Plan Section 5.2, Carmel Area Land Use Plan Section 4.2, and Del Monte Forest Land Use Plan Chapter Three-- Introduction), and zoning restrictions (B-8 overlay). The County acknowledges prohibiting Accessory Dwelling Units in these areas may limit the housing opportunities of the region; however, specific adverse impacts on the public health, safety and welfare that would result from allowing Accessory Dwelling Units in these areas justify these limitations.

Accessory Dwelling Units will not be permitted in the following areas:

1. In any zoning district combined with a B-8 zoning overlay.
2. In the North County Land Use Plan area ~~outside of the area of benefit of the Salinas Valley Water Project (Zone 2C).~~
- ~~3. In the North County Land Use Plan area within the area of benefit of the Salinas Valley Water Project (Zone 2C), on lots less than 5 acres in areas not served by public sewer systems.~~
34. In the Carmel Area Land Use Plan area, on lots less than 40 acres in area.
45. In the Big Sur Coast Land Use Plan area, no Accessory Dwelling Units beyond the first 50 (including previously permitted caretaker units) approved in the Plan area from the time of certification of the Big Sur Coast Land Use Plan (April 9, 1986).

E. Regulations: Accessory Dwelling Units may be allowed subject to a Coastal Administrative Permit or Coastal Development Permit if applicable in designated districts and subject in all cases to the following regulations:

1. Only one Accessory Dwelling Unit per lot shall be allowed.
2. Accessory Dwelling Units shall not be permitted prior to a main residence and shall be located on the same lot as the main residence. Accessory Dwelling Units must provide complete independent living facilities for one or more persons and shall contain permanent

provisions for living, sleeping, eating, cooking, and sanitation. An Accessory Dwelling Unit may be rented.

3. The minimum lot size for establishment of an Accessory Dwelling Unit shall be as follows:

a. ~~In Two acres in~~ areas not served by public sewers ~~shall be two acres, except in North County, within zone 2C, where the minimum lot size shall be five acres in areas not served by public sewer systems.~~

b. In Big Sur the minimum lot size shall be two acres.

c. In Carmel the minimum lot size shall be forty acres.

4. Accessory dwelling units are subject to the build out limitations established by each Land Use Plan but are not subject to density requirements of the zoning district in which a lot is located.

5. The maximum floor area for an Accessory Dwelling Unit is 1,200 square feet.

6. Parking for accessory dwelling units shall be consistent with the Parking Regulations of this Title (Chapter 20.58).

7. Within the applicable areas, units permitted as a Senior Citizen unit or a Caretaker unit prior to adoption of these regulations for Accessory Dwelling Units shall be considered an Accessory Dwelling Unit for the purposes of this section.

8. Accessory Dwelling Units shall conform to all of the zoning and development standards (lot coverage, height, setbacks, design, etc.) of the zoning district which governs the lot. Development standards shall be applied to Accessory Dwelling Units based on the cumulative development on the parcel. An Accessory Dwelling Unit attached to the principal residence shall be subject to the height, setback and coverage regulations of the principal residence. An Accessory Dwelling Unit detached from the principal dwelling shall be treated as a habitable accessory structure in regard to height, and setbacks.

9. Accessory Dwelling Units shall be designed in such a manner as to be visually consistent and compatible with the principal residence on-site and other residences in the area.

10. Accessory Dwelling Units are subject to review and approval by the Director of Environmental Health to ensure adequate sewage disposal and water supply facilities exist or are readily available to serve the unit.

11. Accessory Dwelling Units are subject to all the resource protection policies of the applicable Land Use Plan and shall not be permitted to substantially degrade resources at the site or in the area. Some of the resource constraints that may preclude development of an Accessory Dwelling Unit include but are not limited to:

a. Areas containing environmentally sensitive habitat.

b. In no case shall Accessory Dwelling Units be permitted within native Cypress habitat (Del Monte Forest).

c. Areas where the Accessory Dwelling Unit would cause a substantial adverse impact on visual resources.

d. In no case shall an Accessory Dwelling Unit be permitted within the critical viewshed (Big Sur);

e. Areas determined to have a critically short water supply.

f. Forest health and tree resources;

g. Hazards including slopes, beach and bluff erosion, fire, traffic and other health and safety conditions;

h. Potential impacts to historic and archaeological resources; and

- i. Conflicts with public access.
- F. In order to grant the Coastal Administrative Permit or Coastal Development Permit the Appropriate Authority shall make the following findings.
 - 1. That the establishment of the Accessory Dwelling Unit will not, under the circumstances of the particular application, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County; and
 - 2. The Accessory Dwelling Unit as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
 - 3. That the subject property upon which the Accessory Dwelling Unit is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any, have been paid.
 - 4. The site is physically suitable for the use proposed..
- G. Any Accessory Dwelling Unit proposal which does not comply with the provisions of this Section with regard to size, height, or setbacks shall require a Variance pursuant to Chapter 20.78.

SECTION 42. Subsection E of Section 20.64.180 of the Monterey County Code is amended to read as follows:

E. On-site density for Accessory Dwelling Units, guesthouses, Agricultural Employee Housing, and Employee Housing accessory to an allowed use, shall be determined as follows:

<i>Type of Unit</i>	<i>North County</i>	<i>Big Sur Coast</i>	<i>Carmel Area</i>	<i>Del Monte Forest</i>
Accessory Dwelling Units	Within Zone 2C only. Excluded from density. <u>Not Permitted</u>	Maximum of 50 in planning area. Excluded from density	Excluded from density. 40 acre minimum	Excluded from density.
Guesthouses	Excluded from density	Excluded from density	Excluded from density	Excluded from density
Employee Housing	Subject to LUPs overall buildout cap	Maximum of 300 in planning area	Permitted per Section 20.146.120.B.3	Not permitted
Agricultural Employee Housing	Based on parcel zoning	Permitted per Section 20.145.14.0.B4c1	Excluded from density	Not permitted

All other residential development, including but not limited to Small Residential Care Facilities and Large Residential Care Facilities, is subject to the density established by the parcel's zoning district, except if provided elsewhere in this Chapter.

“Excluded from density” means that the units may be considered in addition to the density allowed by the parcel's zoning classification.

SECTION 46. Chapter 20.65 is added to the Monterey County Code to read as follows:

Chapter 20.65
Density bonus and incentives

Sections:

20.65.010 – Purpose

20.65.020 – Applicability

20.65.030 – Definitions

20.65.040 – Density Bonus Application Requirements

20.65.050 – Eligibility for Density Bonus

20.65.060 - Density Bonus Calculations

20.65.070 – Eligibility and Application Requirements for Incentives

20.65.080 – Child Care Facilities

20.65.090 – Donation of Land

20.65.100 – General Requirements

20.65.110 – Density bonus and Inclusionary Housing Ordinance

20.65.120 – Qualifying Units – Agreement Required.

20.65.010 Purpose.

The purpose of this Chapter is to implement California Government Code Sections 65915 through 65917.8. These regulations are intended to work in conjunction with the requirements of the Inclusionary Housing Ordinance (Chapter 18.40 of the Monterey County Code) and shall not be interpreted to alter or in any way diminish the requirements of the Inclusionary Housing Ordinance.

20.65.020 Applicability.

The provisions of this Chapter are applicable in all residential zoning districts (HDR, MDR, LDR, RDR).

20.65.030 Definitions.

The following definitions shall apply for purposes of this Chapter:

A. “Affordable Rent” means a monthly amount which, together with utility allowance, does not exceed the following:

1. For very low income Qualifying Units, one-twelfth of thirty (30) percent of the maximum income for a very low income household, adjusted by household size.

2. For low income Qualifying units, one-twelfth of thirty (30) percent of sixty (60) percent of median income, adjusted for household size.

3. For moderate income Qualifying Units, one-twelfth of thirty (30) percent of one hundred ten (110) percent of median income, adjusted for household size.

B. “Affordable Sales Price” means a sales price at which Moderate, Low or Very Low Income Households can qualify for the purchase of Qualifying Units, calculated on the basis of the same underwriting criteria utilized by the County for the County’s Inclusionary Housing Ordinance.

C. “Base Units” means the number of units that would be allowed under the Land Use/General Plan land use designation and zoning ordinance for the subject site before calculation of the Density Bonus.

D. “Child Care Facility” means a facility, other than a day care home, licensed by the State of California to provide non-medical care to children under 18 years of age in need of personal services, supervision or assistance on less than a 24-hour basis.

E. “Density Bonus” means an increase in density over the otherwise maximum allowable residential density under the applicable Zoning Ordinance and Land Use/General Plan Land Use designation taking into account all applicable limitations.

F. “Density Bonus Housing Agreement” means a legally binding agreement between the County and an applicant, governing how the applicant shall comply with this Chapter.

G. “Household” means one or more individuals who occupy one dwelling unit.

H. “Housing Development” means a project providing residential units including, without limitation, a subdivision, a planned unit development, multifamily dwellings, or condominium project. Housing developments consist of development of residential units or creation of unimproved residential lots and also include either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, where the result of the rehabilitation would be a net increase in available residential units.

I. “Incentive” means enticements for providing affordable housing proposed by the developer or the County that result in identifiable, financially sufficient, and actual cost reductions for a qualified Housing Development.

J. “Inclusionary Unit” means a dwelling unit which is restricted for affordability pursuant to the County’s Inclusionary Housing Ordinance.

K. “Low Income Household” or “Lower Income Household” means a household, with an annual income which does not exceed the United States Department of Housing and Urban Development annual determination for Low Income Households with incomes of up to eighty (80) percent of the Median Income, adjusted for household size.

L. “Low Income Unit” or “Lower Income Unit” means a qualifying unit or Inclusionary Unit reserved for occupancy by Low Income Households at an affordable rent or sales price.

M. “Maximum allowable residential density” means the density allowed under the Land Use/General Plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project. Maximum allowable residential density takes into account limitations to density pursuant to Land Use/General Plan policies and Zoning Ordinance regulations.

N. “Median Income” means the median income as determined periodically by the United States Department of Housing and Urban Development for the Salinas Metropolitan Statistical Area and updated on an annual basis.

O. “Moderate Income Household” means a household, with an annual income which does not exceed the United States Department of Housing and Urban Development annual determination for moderate income households with incomes of one hundred twenty (120) percent of the Median Income, adjusted for household size.

P. “Moderate Income Unit” means a Qualifying Unit or Inclusionary Unit reserved for occupancy by moderate income households at an affordable rent or sales price.

Q. “Qualifying Units” means a dwelling or dwellings designated for occupancy by very low, low, or moderate income households, within a housing development, which make the housing development eligible for a Density Bonus.

R. “Senior Citizen Housing Development” means a housing project where residency is restricted to persons 62 years of age or older, or 55 years of age or older and that is designed to meet the physical and social needs of senior citizens. A housing development shall be presumed to meet those needs when it does the following:

1. Entryways, walkways, and hallways in the common areas of the development, and doorways and paths of access to and within the housing units, shall be as wide as required by current laws applicable to new multifamily housing construction for provision of access to persons using a standard-width wheelchair.

2. Walkways and hallways in the common areas of the development shall be equipped with standard height railings or grab bars to assist persons who have difficulty with walking.

3. Walkways and hallways in the common areas shall have lighting conditions which are of sufficient brightness to assist persons who have difficulty seeing.

4. Access to all common areas and housing units within the development shall be provided without use of stairs, either by means of an elevator or sloped walking ramps.

5. The development shall be designed to encourage social contact by providing at least one common room and at least some common open space.

6. Refuse collection shall be provided in a manner that requires a minimum of physical exertion by residents; and

7. The development complies with all the applicable requirements for accessibility.

S. “Very Low Income Household” means a household with an annual income which does not exceed the United States Department of Housing and Urban Development annual determination for Very Low Income Households earning fifty (50) percent of the Median Income, adjusted for household size.

T. “Very Low Income Unit” means a Qualifying Unit or Inclusionary Unit reserved for occupancy by Very Low Income Households at an affordable rent or sales price.

20.65.040 Density Bonus Application Requirements.

An applicant who is seeking a Density Bonus for a Housing Development shall submit to the Planning Department the following information:

A. A site plan that identifies all units in the project including the location of all Base Units, Qualifying Units and Inclusionary Units.

B. A narrative briefly describing:

1. The project;

2. The number of Base Units permitted under the Land Use/General Plan and zoning;

3. The number of Qualifying Units based on Density Bonus criteria of this Chapter;

4. The total number of units proposed in the project (Base Units plus Density Bonus Units);
5. A breakdown of units proposed for very low, low, and moderate income, senior citizen, and/or market rate units;
6. Any requested Incentive(s) including an explanation as to why the Incentive(s) is required for the housing development; and
7. A description of how the proposal complies with the requirements of the Inclusionary Housing Ordinance (Chapter 18.40).

C. Information demonstrating that appropriate and sufficient infrastructure capacity (e.g. water, sewer, roadway) and water supply are available to serve the project at the density proposed.

D. If rental dwelling units are located on the site, or have been located at the site within the five year period preceding the application for a Housing Development, the application shall contain the following information:

1. The maximum number of units that exist or existed within the preceding five years on the site;

2. The number of units that are or were subject to any recorded covenant, ordinance, or law, or other form of rent or price control that restricts rents to levels affordable to persons and families of lower or very low income; and

3. If the units were not subject to an affordability restriction on rents, the rental rates of each unit in the five year period preceding the application.

~~D.E.~~ At the option of the applicant, a written request to meet with the County to discuss applicant's Density Bonus and Incentives request including any request for a waiver or reduction of development standards.

E.F. Any such additional information as may be requested by the Director of Planning or the Director of the Redevelopment and Housing Office to evaluate the request for a Density Bonus or Incentive(s). This additional information may include but is not limited to financial studies.

20.65.050 Eligibility for Density Bonus

A. Except as provided in subsections B and C of this Section, An application for a Housing Development containing five or more residential units shall qualify for a Density Bonus and at least one other Incentive as provided by this Chapter if the applicant does one or more of the following:

1. Agrees to construct and maintain at least five (5) percent of the Base Units for Very Low Income households;
2. Agrees to construct and maintain at least ten (10) percent of the Base Units for Low Income households;
3. Agrees to construct and maintain at least ten (10) percent of the Base Units in a condominium project or Planned Development project dedicated to Moderate Income households, provided that all units in the development are offered to the public for purchase;
4. Agrees to construct and maintain a Senior Citizen Housing Development;
5. Donates land to the County for the construction of Very Low Income units pursuant to the provisions of this Chapter; or

6. Includes a qualifying Child Care Facility in addition to providing housing described in subsections A, B, or C of this Section.

B. If an application for a Housing Development is located on a parcel or parcels that contains, or within the five years preceding the application contained, rental dwelling units that have been occupied by Low or Very Low Income Households, or were subject to a recorded covenant, ordinance, or law or other form of rent or price control that restricts rents to Low or Very Low Income Households, then the application shall be ineligible for a Density Bonus or any other Incentives provided by this Chapter unless the proposed Housing Development replaces those units pursuant to California Government Code Section 65915(c)(3), as may be periodically amended.

C. For applicants who qualify for and seek a Density Bonus pursuant to Section 20.65.050.A, the County may not reduce residential densities below the density sought by the applicant if the density is within the permitted density or range of density provided in this Chapter, unless the Appropriate Authority makes a finding, based on substantial evidence, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with the County’s certified Local Coastal Program.

20.65.060 Density Bonus Calculations.

A. The granting of a Density Bonus or the granting of a Density Bonus together with an Incentive(s) shall not be interpreted, in and of itself, to require a Land Use Plan/General Plan amendment, specific plan amendment, rezone, or other discretionary approval.

B. An applicant must choose a Density Bonus from only one applicable affordability category of this Chapter and may not combine categories, with the exception of a Child Care Facility or land donation. The Child Care Facility or land donation may be combined with an affordable housing development for an additional Density Bonus up to a combined maximum of thirty five (35) percent.

C. The calculation of Qualifying Units shall be based on the number of Base Units. In no event shall a Density Bonus exceed 35 percent of Base Units. A Housing Development that satisfies all applicable provisions of this Chapter shall be allowed the following applicable Density Bonuses:

1. The Density Bonus for Very Low Income Units shall be calculated as follows.

Percentage of Very Low Income Units	Maximum Density Bonus (Percent of Base Units)
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. The Density Bonus for Low Income Units shall be calculated as follows:

Percentage of Low Income Units	Maximum Density Bonus (Percent of Base Units)
10	20

11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

3. The Density Bonus for Moderate Income Units shall be calculated as follows:

Percentage of Moderate Income Units	Maximum Density Bonus (Percent of Base Units)
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33

39	34
40	35

4. Senior Citizen Housing Developments qualify for a 20 percent Density Bonus.

5. Except as provided in subsection 6 of subsection C of this Section, Aan applicant for an apartment conversion to a condominium project that provides at least 33 percent of the total units of the proposed condominium project to persons and families of Low or Moderate Income, or 15 percent of the total units of the project to Lower Income households, and agrees to pay for the reasonable necessary administrative costs incurred by the County, qualifiesy for a 25 percent Density Bonus or other Incentives of equivalent financial value.

6. An application to convert apartments to a condominium project shall be ineligible for a Density Bonus or other Incentives if either of the following apply:

a. ~~the~~The apartments proposed for conversion constitute a Housing Development for which a Density Bonus or other Incentives were provided under the other provisions of this Section; or

a.b. The proposed condominium project is located on a parcel or parcels that contain, or within the five years preceding the application contained, rental dwelling units that have been occupied by Low or Very Low Income Households, or were subject to a recorded covenant, ordinance, or law or other form of rent or price control that restricts rents to Low or Very Low Income Households, unless the proposed condominium project replaces those units pursuant to California Government Code Section 65915.5(g), as may be periodically amended.

20.65.070 Eligibility and Application Requirements for Incentives

A. A Housing Development qualifying for a Density Bonus is entitled to at least one Incentive in addition to the Density Bonus. Incentives are available for qualifying Housing Developments as follows:

1. One (1) Incentive for a Senior Citizen Housing Development or for a Housing Development that restricts at least:

- a. Five (5) percent of Base Units for Very Low Income Households;
- b. Ten (10) percent of Base Units for Low Income Households; or
- c. Ten (10) percent of Base Units for Moderate Income Households within a

Condominium project or a Planned Unit Development.

2. Two (2) Incentives for a Housing Development that restricts at least:

- a. Ten (10) percent of the Base Units for Very Low Income Households;
- b. Twenty (20) percent of the Base Units for Low Income Households; or
- c. Twenty (20) percent of the Base Units for Moderate Income Households within a

Condominium project or a Planned Unit Development.

3. Three (3) Incentives for a Housing Development that restricts at least:

- a. Fifteen (15) percent of Base Units for Very Low Income Households;
- b. Thirty (30) percent of Base Units for Low Income Households; or
- c. Thirty (30) percent of Base Units for Moderate Income Households within a

Condominium project or a Planned Unit Development.

B. The Appropriate Authority for the Housing Development shall grant the Incentive unless the Appropriate Authority makes a written finding, based upon substantial evidence, of any of the following:

1. That the Incentive is not necessary in order to provide for affordable housing costs;
or

2. That the Incentive would result in specific adverse impacts upon the public health, safety, or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low, and Moderate Income Households.

3. That the Incentive would be contrary to the County's certified Local Coastal Program or State or Federal law.

C. Where a Housing Development qualifies for Incentives pursuant to this Chapter the applicant may request any of the following Incentives:

1. A reduction in site development standards such as:

- a. Reduced minimum lot sizes and/or dimensions
- b. Reduced minimum setbacks
- c. Increased Lot Coverage
- d. Increased Maximum building heights; or
- e. Reduced on-site parking requirements

2. Approval of a mixed use zoning in conjunction with the Housing Development if commercial, office, or other land uses will reduce the cost of the housing development and if the commercial, office or other land uses are compatible with the Housing Development and the existing or planned development in the area where the proposed Housing Development will be located; or

3. Other regulatory Incentives proposed by the developer or the County, which result in identifiable, financially sufficient and actual cost reductions.

4. In addition to the requested Incentives above, and not counting toward the eligible number of Incentives, any applicant qualifying for a Density Bonus may request, inclusive of handicapped and guest parking, the following parking ratios:

- a. Zero to one bedrooms: One onsite parking space
- b. Two to three bedrooms: Two onsite parking spaces
- c. Four or more bedrooms: Two and one-half parking spaces

If the total number of parking spaces for the development is other than a whole number, the number shall be rounded up to the next whole number.

20.65.080 Child Care Facilities

A. When an applicant proposes a Housing Development that is eligible for a Density Bonus under this Chapter and includes a Child Care Facility on the premises or adjacent to the Housing Development, the applicant shall receive an additional Density Bonus that is in an amount of square feet of residential space that is equal to the square footage of the child care facility; or the applicant may receive another incentive that contributes significantly to the economic feasibility of the construction of the Child Care Facility, provided that, in both cases, the following conditions are incorporated in the conditions of approval for the Housing Development:

1. The Child Care Facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable pursuant to the terms of the Density Bonus Housing Agreement required by Section 20.65.120 of this Chapter.

2. Attendance of children at the Child Care Facility shall have an equal percentage or greater of children from Very Low, Low, and Moderate Income Households than the percentage of affordable units in the Housing Development.

B. The County may deny the request for a Density Bonus or Incentive for a Child Care Facility if the County finds, based upon substantial evidence, that the community has adequate Child Care Facilities without the facilities being considered as part of the subject Housing Development.

20.65.090 Donation of Land

A. When an applicant for a tentative subdivision map, parcel map or other residential development donates land to the County, the applicant shall be entitled to a Density Bonus above the Maximum Allowable Residential Density, up to a maximum of thirty five (35) percent depending on the amount of land donated. This increase shall be in addition to any increase in density permitted by this Chapter up to a maximum combined density increase of 35 percent. A Density Bonus for donation of land shall only be considered if all of the following conditions are met:

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to Very Low Income households in the amount not less than 10% of the residential units in the proposed development.

3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate Land Use Plan/General Plan designation, is appropriately zoned for development as affordable housing, and is, or will be, served by adequate public facilities and infrastructure. The transferred land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the Very Low Income Units on the transferred land, except that the County may subject the proposed development to subsequent design review if the design is not reviewed by the County prior to the time of transfer.

4. The transferred land and the units constructed on said land shall be subject to a deed restriction ensuring continued affordability of the units for a period of at least ~~30-55~~ years and subject to restrictions consistent with California Government Code Section 65915 (c)(1) and (2), as may be periodically amended.

5. The land is transferred to the County or to a housing developer approved by the County.

6. The transferred land shall be within the boundary of the proposed development or, if the County determines appropriate, within one-quarter mile of the boundary of the proposed development.

20.65.100 General Requirements.

A. An applicant may request a meeting with the Planning Department ~~and the Redevelopment and Housing Office of the County and the Economic Development Department~~ prior to the submittal of a development application to discuss incentive requests.

B. The Appropriate Authority to consider the Density Bonus is the Appropriate Authority for the qualifying Housing Development of which the Density Bonus is a component.

20.65.110 Density Bonus and Inclusionary Housing Ordinance.

A. All residential development shall comply with the Inclusionary Housing Ordinance contained in Chapter 18.40 of the Monterey County Code, and nothing in this Chapter relieves an applicant from complying with the Inclusionary Housing Ordinance. The County's granting of a Density Bonus by itself does not satisfy the applicant's responsibility to comply with the Inclusionary Housing Ordinance.

B. The total number of Inclusionary Units is calculated based upon the total number of units within the Housing Development (Base Units plus Density Bonus). The number of Qualifying Units used to determine eligibility for Density Bonus is based upon the number of Base Units.

20.65.120 Qualifying Units – Agreement Required.

A. Qualifying units may be used to satisfy the Inclusionary Housing requirements of Chapter 18.40 of the Monterey County Code. If Qualifying Units are applied to the Inclusionary Housing requirements, those units will be subject to the affordability provisions of the Inclusionary Housing Ordinance. The applicant will be required to enter into an Inclusionary Housing Developer Agreement governing these units pursuant to the County's Inclusionary Housing Ordinance.

B. All Qualifying Units not included within the Inclusionary Housing Developer Agreement shall be subject to the following provisions:

1. Duration of Affordability. The applicant shall agree to, and the County shall ensure, the continued availability of the Qualifying Units and other Incentives for a period of at least ~~30~~55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

2. Unit Affordability Requirements.

a. Rental Units. Rents for the Lower income and Moderate income Qualifying Units shall be set at an Affordable Rent as defined in section 20.65.030.

b. Owner-occupied Units. Owner-occupied Qualifying Units shall be available at an Affordable Housing Sales Price as defined in section 20.65.030

3. Occupancy and Resale of Very Low, Low, and Moderate Income for sale units.

a. An applicant shall agree to, and the County shall ensure, that the occupant of Very Low, Low, or Moderate Income units are persons and families of the appropriate income and that the units are offered at an affordable housing cost.

b. The County shall enforce an equity sharing agreement as specified in California Government Code Section 65915(c)(2), as may be periodically amended.

4. Location and Type of Qualifying Units.

a. Location/Dispersion of Units. Qualifying units shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to the market rate units within the Housing Development. The Qualifying Units shall be considered as part of the Housing Development for which the Density Bonus is being considered. To the greatest extent feasible, the Qualifying Units shall be located throughout the Housing Development that also includes market rate units. Qualifying Units may be clustered or located off-site subject to the approval of the

Appropriate Authority, if such clustering or off-site location furthers affordable housing opportunities.

b. Phasing. If a project is to be phased, the Qualifying Units shall be phased in the same proportion as the market rate units or phased in another sequence acceptable to the County. The Qualifying Units shall be constructed concurrently with or prior to construction of the market rate units.

c. Exterior Appearance. The exterior appearance and quality of the Qualifying Units shall generally be similar to the market rate units, with exterior materials and improvements similar to and architecturally compatible with the market rate units in the development.

5. The Applicant will be required to enter into and record a Density Bonus Housing Agreement with the County, either as a separate agreement or combined with the Inclusionary Housing Developer Agreement, containing and implementing these requirements.

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