

ATTACHMENT D

**Town Density
Bonus Ordinance
MC 17.138.040**

17.138.040 - Town Density Bonus.

The amount of a residential density bonus a project is eligible for shall be determined in accordance with this Section. The foundation of the Town Density Bonus Program is that projects will earn points through the provision of deed restricted workforce housing units and the amount of points required for the desired density bonus is based on the size of the density bonus requested. The larger the density bonus request (up to a maximum of twice the allowed density), the more workforce housing that a project must provide to receive the bonus.

A. **Determination of Bonuses.** Projects identified as eligible project types in Section 17.138.020.A shall be eligible for a residential density bonus, up to a maximum of twice the allowed density, in accordance with the following procedures.

1. **Eligibility points required.** The number of Eligibility Points required, up to a maximum of 100, for the desired density bonus is calculated according to the following formula. If the Eligibility Points calculation results in a number that is not a factor of five, the number of points required shall be rounded up to the next multiple of five.

$$(Bonus\ Requested)/(Bonus\ Increment) \times 100 = Points\ Required$$

(rounded up to the next multiple of five if the calculation results in a number that is not a factor of five)

For example, a project with a base site density of four units that wants to build a six-unit project would be required to generate fifty points to obtain the two-unit density bonus.

$$((6 - 4))/((8 - 4)) \times 100 = 50\ Points$$

Variables used in the Eligibility Points calculation:

- a. **Bonus requested:** The amount of residential density requested for the project above the maximum base site density (i.e., the maximum base site density subtracted from the total number of units requested).
 - b. **Bonus increment:** The difference between the maximum density with the bonus allowed and the maximum base site density (i.e., the maximum base site density subtracted from the maximum site density with the bonus).
2. **Application of the eligibility points.** All of the Eligibility Point requirements shall be fulfilled by deed restricting to workforce housing a percentage of the base density units that is proportional to the density bonus requested. The required percentages that correspond to the Eligibility Points for each affordability level shall be established in the "Eligibility Points Schedule for the Town Density Bonus" adopted by Council resolution in the Town Density Bonus Program policy.

Project proponents have the option to select which affordability level the units are restricted to; however, the percentage of units required to be deed restricted shall increase as the affordability level decreases.

For example, to generate the fifty points required for the desired density bonus from the above example, the project would be required to deed restrict the percentage of base density units specified in one of the Affordability Level columns to the right of the "50" Eligibility Points Awarded row in the "Eligibility Points Schedule for the Town Density Bonus" adopted by Council resolution in the Town Density Bonus Program policy.

B. **Income Level Categories.** The affordability level categories used in the "Eligibility Points Schedule for the

Town Density Bonus" shall be established by Council resolution and be periodically reviewed and updated. The affordability level categories can range from "Low Income Households" (i.e., households earning eighty percent or below of the AMI) to "Occupant Restricted Households" (i.e., required to be their principal place of residence and be employed in either Mono or Inyo County, or be retired). Additional affordability levels that are in between "Low Income Households" and "Occupant Restricted Households" may be established by the Council. The eligibility requirements for each affordability level shall be established by Council resolution in the Town Density Bonus Program policy, as it may be amended from time to time.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)

17.138.050 - Incentives and Concessions.

- A. **Allowed Incentives and Concessions.** Multi-family residential projects that receive a density bonus pursuant to this Chapter shall be eligible to receive one of the following incentives or concessions:
1. An increase in the allowable lot coverage;
 2. Up to a twenty percent reduction in setbacks;
 3. Up to a twenty-five percent reduction of the required number of guest-parking spaces;
 4. Up to a ten percent increase in the maximum permitted structure height;
 5. A reduction or elimination of one of the multi-family residential development and operational standards specified in Section 17.52.210 (Multi-Family Residential Projects); or
 6. Approval of mixed-use zoning not otherwise allowed by this Zoning Code in conjunction with the housing development if non-residential land uses will reduce the cost of the housing development, and the non-residential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located.
- B. **Additional Incentives or Concessions.** The review authority may grant two or more incentives or concessions under this Subsection if the applicant demonstrates that the project will either:
1. Provide a greater number of deed restricted units than otherwise required;
 2. Provide a greater or longer term deed restriction than otherwise required; or
 3. Meet other applicable Housing Element goals or policies.
- C. **Alternative Incentives or Concessions.** An applicant eligible for an incentive or concession under this Subsection may submit a request for an incentive or concession different than those specified above if the incentive or concession will result in identifiable, financially sufficient, and actual cost reductions, subject to review and approval by the review authority.
- D. **Snow Storage.** Multi-family residential projects that receive a density bonus pursuant to this Chapter shall be eligible for a reduction of the required snow storage areas if the property owner commits to haul on-site snow from the property to an approved off-site snow storage area in accordance with Section 17.36.110.B.3.a, as it may be amended from time to time, provided that the interim snow storage areas do not interfere with any of the required parking areas. The allowance for snow hauling shall not be considered to be an incentive or concession for the purposes of this Subsection. The commitment to haul on-site snow shall be in the form of a recorded document mutually agreed to between the property owner and the Town.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)

17.138.060 - Findings and Conditions of Approval.

- A. **Required Findings.** In addition to the use permit findings required by Section 17.68.050, a use permit for a project receiving a Town density bonus pursuant to this Chapter shall be approved only if all of the following additional findings can be made:
1. The proposed project will generate a sufficient number of Eligibility Points required for the bonus amount requested.
 2. The proposed project is compatible with the surrounding neighborhood with regards to building scale, form, materials, and street orientation.
 3. The incentive or concession is required in order to make the project feasible and the incentive or concession requested is the minimum departure from the requirements of this Zoning Code necessary to make the housing project feasible.
- B. **Required Conditions of Approval.** In addition to any other required conditions of approval, all of the following conditions shall apply to all use permits that are granted for a project receiving a Town density bonus pursuant to this Chapter:
1. Before a certificate of occupancy is issued for a project, the applicant shall certify to the Director that the Eligibility Points upon which the project's residential density bonus was based have been achieved. To satisfy this condition, evidence shall be provided that a Workforce Housing Agreement that is consistent with Section 17.138.090 has been recorded against the property and that the required number of deed restrictions at the agreed upon affordability level have been recorded against the property. The Town shall be named as a party in the Workforce Housing Agreement and shall have the right to enforce all subsequent deed restrictions.
 2. Before a certificate of occupancy is issued for a project, the applicant shall provide evidence to the Town that transient rentals are prohibited for all units within the development. Evidence shall consist of a deed and/or use restriction satisfactory to the Town prohibiting transient rentals that has been recorded against all units within the development.
 3. The total number of deed restricted units required for the density bonus shall not be reduced or otherwise eliminated without the approval of the review authority. To grant such approval, the review authority must find that there is a corresponding reduction in density.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)

17.138.070 - Ownership Unit Occupancy and Long-Term Restrictions.

Each workforce housing ownership unit that qualified the project for a density bonus and other incentives and/or concessions pursuant to this Chapter shall comply with all of the requirements of this Section.

A. **Ownership Unit Occupancy Requirements.**

1. ***Eligibility requirements.*** Except as provided in Section 17.138.070.A.1.c, a workforce housing ownership unit shall be sold, and to the extent required by Subsection C, resold, only to a household certified by the Town, or its designee, as meeting the eligibility requirements designated by the terms

of the project approval, and which also comply with all of the following requirements:

- a. The purchaser shall be a Qualified Household, as that term is defined in the Town Density Bonus Program policy.
 - b. The purchaser shall be a Qualified Resident, as that term is defined in the Town Density Bonus Program policy and shall occupy the unit as his or her principal place of residence and may not rent the unit in its entirety to another party, except as provided in Section 17.138.080.A.1.c.
 - c. In the event that the purchaser no longer resides in the unit as their principal place of residence or the unit is owned as an investment property for rental purposes, the workforce housing ownership unit shall then be considered to be a workforce housing rental unit and be subject to the requirements specified in Section 17.138.080. Transition from an ownership unit to a rental unit shall require prior approval from the Town, or its designee.
2. ***Buyer certification and selection.*** Workforce housing units shall be sold, and to the extent required by Subsection C, resold, only to households certified by the Town, or its designee, as satisfying the eligibility requirements specified in Section 17.138.070.A.1, above, and in compliance with all of the following requirements:
- a. Initial buyers eligible to purchase workforce housing units shall be selected by the Developer, as that term is defined in the Town Density Bonus Program policy, in compliance with a marketing plan approved, in advance, by the Town, or its designee. Developer shall use commercially reasonable efforts to market the units to Qualified Residents. Prior to initial marketing of the units, Developer shall provide the Town copies of its marketing and outreach plan which the Town shall approve or disapprove within thirty days of receipt. Subsequent buyers shall be verified by the Town, or its designee, that they are in compliance with the approved marketing plan and the Town Density Bonus Program policy.
 - b. The marketing plan shall identify and detail the process to be used for the marketing and sale of the workforce housing units to Qualified Households.
3. ***Preferences.*** Preferences in the sale of workforce housing units shall be given first to persons currently employed in either Mono or Inyo County that meet the Qualified Resident criteria specified in the Town Density Bonus Program policy, and then to current Mono or Inyo County residents, to the extent allowed by law.
- B. **Ownership Units—Sales Price Restrictions.** Workforce housing ownership units that are restricted to a specific affordability level in the terms of the project approval shall be offered at sales prices that are considered affordable to the specified affordability level, as those affordability levels are defined in the Town Density Bonus Program policy. The Town, or its designee, shall establish the maximum sales prices for each of these income categories based upon the income limits that the California Department of Housing and Community Development (HCD) issues annually for Mono County.
- C. **Workforce Housing Agreement Required.**
1. The Town shall record a Workforce Housing Agreement consistent with the terms in Section 17.138.090 with the Qualified Resident concurrently with the recording of each grant deed transferring title to a workforce housing unit subject to this Section to a Qualified Household. The

Workforce Housing Agreement shall provide the Town, for the term specified in Subparagraph D.5, below, with a first right to purchase the unit upon resale.

2. The Workforce Housing Agreement shall permit the Town to assign its rights to purchase the units under that Agreement to a Qualified Household to purchase the unit.
3. In all cases where the Town exercises its rights to purchase the units, the units shall be conveyed to, or purchased by, a Qualified Household in compliance with the designation of the unit in the project approvals and as determined by the Town in compliance with the Town Density Bonus Program policy.
4. The Workforce Housing Agreement for each unit shall reserve the unit for purchase by the Town or its assignee and for resale only to Qualified Households, as defined by this Section and the project approvals, for a minimum of fifty-five years, or for a longer period if required by the project approvals. A new term shall commence on the recording date of each new Workforce Housing Agreement recorded concurrently with a grant deed transferring title of the designated unit to a Qualified Household.

D. **Administrative Fees.** The Town, or its designee, may collect an administrative fee, as the Town may establish from time to time, at close of escrow of the sale and resale of each workforce housing ownership unit, to recover the costs of its obligations under this Section.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)

17.138.080 - Rental Unit Occupancy and Long-Term Restrictions.

Each workforce housing rental unit that qualified the project for a density bonus and other incentives and/or concessions pursuant to this Chapter shall comply with all of the requirements of this Section.

A. Rental Unit—Occupancy Requirements.

1. **Eligibility requirements.** A workforce housing rental unit shall be rented only to a household certified by the Town, or its designee, as meeting the eligibility requirements designated by the terms of the project approval, and which also comply with all of the following requirements:
 - a. The unit shall be rented by a Qualified Household, as that term is defined in the Town Density Bonus Program policy.
 - b. At least one occupant of the unit shall be a Qualified Resident, as that term is defined in the Town Density Bonus Program policy, and shall occupy the unit as his or her principal place of residence.
 - c. If the workforce housing rental unit is restricted to a specific affordability level in the terms of the project approvals, the annual household income, adjusted for household size, shall be required to be equal to or less than the income limits established in the Town Density Bonus Program policy for the applicable affordability level.
2. **Tenant certification and selection.** Workforce housing rental units shall be rented only to households certified by the Town, or its designee, as satisfying the eligibility requirements specified in Section 17.138.080.A.1, above. Developer, as that term is defined in the Town Density Bonus Program policy, shall use commercially reasonable efforts to market the units to Qualified Residents. Prior to initial marketing of the units, Developer shall provide the Town copies of its marketing and outreach

plan which the Town shall approve or disapprove within thirty days of receipt. The marketing plan shall identify and detail the process to be used for the marketing of the workforce housing rental units to Qualified Residents.

3. **Preferences.** Preference in the rental of workforce housing units shall be given first to persons currently employed in either Mono or Inyo County that meet the Qualified Resident criteria specified in the Town Density Bonus Program policy, and then to current Mono or Inyo County residents, to the extent allowed by law.
- B. **Workforce Housing Rental Unit Restrictions.** Each workforce housing rental unit that is restricted to a specific affordability level in the terms of the project approval shall be offered at a rent level that is considered affordable to the specified affordability level as defined in the Town Density Bonus Program policy. The maximum rental rates shall be established annually by the Town, or its designee, based upon the income limits that the California Department of Housing and Community Development (HCD) issues annually for Mono County. A utility allowance will be deducted from the maximum affordable rent so that the monthly housing costs (rent plus tenant-paid utilities) do not exceed thirty percent of the area median income for the specified affordability level, as established by HCD, adjusted for assumed household size.
- C. **Term of Rental Restrictions.** Each required workforce housing unit shall be reserved for Qualified Households for a minimum of fifty-five years, or for a longer period if required by the project approvals. The rental restriction term shall commence on the date of issuance of the certificate of occupancy for the workforce housing unit.
- D. **Rental Unit Monitoring.** The Town, or its designee, shall monitor the rental of workforce housing units for compliance with the Workforce Housing Agreement and the provisions of this Chapter. On an annual basis, the Town, or its designee, may collect a monitoring fee, as the Town may establish from time to time, from the owner for the monitoring of each rental unit subject to the Workforce Housing Agreement, to recover the costs of its obligations under this Section.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)

17.138.090 - Workforce Housing Agreement.

- A. **Agreement Required.** The obligations assumed by an applicant or property owner in exchange for the density bonus in compliance with this Chapter shall be secured by a recorded Workforce Housing Agreement executed by the property owner and the Town, and recorded before the recordation of a final map or issuance of the first building permit for the designated dwelling units, whichever occurs first. The agreement shall be in a form approved by the Department and Town Attorney and shall be consistent with any construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or other similar grant program requirements or terms. The agreement shall be binding on all future owners, developers, and/or successors-in-interest for the specified term.
- B. **Agreement Contents.** A Workforce Housing Agreement shall contain provisions that implement all requirements of this Chapter, as applicable to the specific project. The agreement shall also include the following provisions, and/or any additional requirements required by the review authority.
 1. **Occupancy standards.** The agreement shall include provisions that specify:
 - a. If restricted to a specific affordability level, the income eligibility criteria for defining housing unit

affordability;

- b. If restricted to a specific affordability level, the actual affordable sales prices or rents for affordable units, as determined by the Town, or its designee, in accordance with this Chapter. The agreement shall also provide that the Town may from time to time revise the sales prices and rent limits in response to changes in income limits, monthly housing costs, and the real estate market. Monthly housing costs for workforce housing ownership units shall include mortgage payments, property taxes, homeowners insurance and, as applicable, homeowner's association dues and primary mortgage insurance. Monthly housing costs for workforce housing rental units shall include the rent plus any tenant-paid utilities;
 - c. Criteria for the certification and selection of buyers or renters, as applicable.
2. ***Sale, resale, and rental restrictions.*** The agreement shall include provisions that specify:
- a. A guarantee of sale or rent to Qualified Households, as that term is defined by the Town Density Bonus Program policy, and continued availability of all units designated as workforce housing units for a minimum of fifty-five years, or for a longer term if required by the project approvals.
 - b. For units that will be workforce housing ownership units, a provision restricting the sale of the workforce housing ownership unit to Qualified Households, as that term is defined by the Town Density Bonus Program policy.
 - c. For units that will be purchased as investment properties for rental purposes, a provision restricting the rental of the unit to Qualified Households, as that term is defined by the Town Density Bonus Program policy; and
 - d. A provision that the sale of a dwelling designated as a Workforce Housing Unit shall include an assignable Workforce Housing Agreement granting the Town, or its designee, the first right of refusal to purchase the unit at the time of subsequent sale as specified in the Town Density Bonus Program policy.
3. ***Fees.*** The agreement shall include a provision that the Town, or its designee, receive all applicable fees as may be established by Resolution of the Council from time to time, including, but not limited to, monitoring fees for rental units and administrative fees at sale and resale of ownership units subject to this Chapter.
4. ***Enforcement and recovery of costs.*** The agreement shall include a provision that provides for enforcement of the agreement by the Town and that entitles the Town to recover reasonable attorney's fees (including Town Attorney fees), investigation and litigation expenses, and any related staff costs associated with enforcing the Agreement.

(Ord. No. 20-02, § 4(Exh. A, e.), 3-18-2020)