

Chapter ~~20.500~~ **Article 2**

Growth Management, Allocation, and Transfer Development Rights

Sections:

~~20.500.010~~ **2.10 Transfer of Development Rights (A-19 and FR-19) Eligibility.**
~~20.500.020~~ **Procedure.**

~~20.500.010~~ **A. Transfer of Development Rights Eligibility.**

~~A.~~ **1.** Real property situated in the A-19 and FR-19 districts may transfer development rights to real property situated in designated receiving areas, as shown in the 1996 master plan, as amended.

~~B.~~ The owner of real property in a sending area may not sell, transfer or convey more development rights than the parcel is permitted under the 1996 master plan, as amended plus bonuses as provided in this chapter.

~~C.~~ **2.** In the A-19 zoning district, no development rights can be transferred, nor can a certificate of eligibility be issued, unless the owner of the real property permanently restricts all appurtenant surface and groundwater irrigation rights against transfer from the sending parcel.

~~D.~~ **3.** The owner of real property in a receiving area may not transfer more development rights to a parcel than the density provided by the base zoning district, an approved planned development or an approved specific plan for the parcel.

~~E.~~ **4.** Transfer of development rights from parcels zoned A-19 is eligible for bonuses using the following calculations:

~~1.~~ **a.** The bonus for the transfer of development rights for each 19-acres shall be 9 units. These bonus units are conferred, and can only be used for transfer. They cannot be used on the sending parcel for any other purpose.

~~2.~~ **b.** A bonus of 7 units per 19-acres shall be provided for each sending parcel for which at least 50% of the 19 acres is located within the designated FEMA 100-year floodplain.

~~3.~~ **c.** A bonus of 7 units per 19-acres shall be provided when transfer of all of the appurtenant surface and groundwater irrigation rights from the parcel is restricted. The restriction against the transfer may provide for substitution of water rights of equivalent volume and equal or senior priority, on approval by the board at the time of substitution.

~~4.~~ **d.** A bonus of 20 units for every 100 acres shall be provided for each sending parcel when the parcel or contiguous parcels are a minimum of 100 acres in area.

~~5.~~ **e.** The board in its discretion may grant additional bonuses not to exceed one unit per 19 acres for dedication of improved and permanent public access easements or easements to rivers, streams, public lands, or significant historical resources. These bonus units are conferred, and can only be used, upon transfer of all development rights from the sending parcel. It cannot be used on the sending parcel for any other

purpose.

~~6.~~ **f.** Minimum parcel size for participation in the TDR program is 40 contiguous acres. Calculations for bonuses on parcels greater than 40 acres shall be on a prorated basis with all bonus calculations rounded to the nearest whole number. Individual parcels may be considered together for the purpose of calculating bonuses.

~~7.~~ **g.** Any existing or remaining residential unit or commercial development on the sending parcel shall require a minimum of 40 acres, which shall not be eligible for transfer or bonuses. The parent parcel or group of parcels will be reduced by 40 acres before calculating units available for transfer and bonuses.

~~F.~~ **5.** Transfer of development rights from parcels in the FR-19 district are eligible for bonuses using the following calculations. These bonus units are conferred, and can only be used, upon transfer of all development rights from the sending parcel. They cannot be used on the sending parcel for any other purpose.

~~1.~~ **a.** The bonus for the transfer of development rights from each 19-acres, of which at least 50% of the 19 acres is located within the designated FEMA 100-year floodplain, shall be one unit.

~~2.~~ **b.** The board in its discretion may grant additional bonuses not to exceed one per unit per 19 acres for dedication of improved and permanent public access easements or easements to rivers, streams, public lands or significant historical resources. These bonus units are conferred, and can only be used, upon transfer of all development rights from the sending parcel. It cannot be used on the sending parcel for any other purpose.

~~3.~~ **c.** A bonus of one unit for every 100 acres shall be provided for each sending parcel when the parcel or contiguous parcels are a minimum of 100 acres in area.

~~4.~~ **d.** Minimum parcel size for participation in the TDR program is 40 contiguous acres. Calculations for bonuses on parcels greater than 40 acres shall be on a prorated basis with all bonus calculations rounded to the nearest whole number. Individual parcels may be considered together for the purpose of calculating bonuses.

~~5.~~ **e.** Lands owned or held in trust by the United States or its agencies are not eligible to participate in this program.

~~G.~~ **6.** Bonuses are conferred only upon transfer of the development rights from a parcel of real property. Partial transfers may occur only from parcels in excess of 40 acres in area. For a parcel in excess of 40 acres, if the owner transfers less than all of the development rights to which the parcel is entitled, the owner shall designate the portion of the parcel from which the development right or rights are being transferred, and a description of the portion will be included in the open space easement or deed restriction required by ~~section 20-500.020~~. A parcel of real property from which a partial transfer of development rights has been made is not eligible for land division under ~~chapter 20-704~~ which will result in parcels less than 40 acres in size. (~~Ord. 968, 2001; Ord. 763, 1996~~)

~~20-500.020~~ B. Procedure.

~~A.~~ **1.** To transfer or acquire development rights under this chapter, a **A property owner** person shall apply to the community development department for a certificate

that the parcel in question is eligible for such transfer or acquisition. The application and certificate shall be on a form prepared by the community development department. **The application shall include the following:**

~~B. a.~~ **a.** and shall include a **A** legal description of the parcel or parcels and a current title report.

b. Documentation to establish eligibility for all bonuses ~~must be provided with the application.~~

c. If the transferor applies for a density bonus related to the restriction against transfer of water rights, then evidence of the appurtenant surface water rights under the Alpine Decree or state permits for other irrigation water rights shall be provided with the application.

d. If the transferor applies for bonuses related to flood plain preservation, a detailed map showing the property and the floodplain preservation, a detailed map showing the property and the floodplain boundary along with the calculations showing percentage and acreage of the sending parcels in the floodplain must be provided.

e. If the transferor applies for bonuses related to the 100-acre minimum parcel area, a detailed map showing the property or properties and their respective parcel sizes; **and must be provided.**

~~C. f.~~ **f.** ~~In order for the certificate to be issued, the owner must~~ **A copy of the** recorded a deed restriction, or grant a perpetual open space easement to the county, a local governmental agency approved by the board, or a nonprofit conservation entity, ~~the form of which shall be subject to the approval of the county and presented with the application for the certificate. The open space easement or deed restriction shall~~ containing words sufficient to restrict transfer of appurtenant surface or other irrigation water rights as required herein.

~~D. 2.~~ **2.** If the director finds that the application is complete and the open space easement or deed restriction is in proper form and has been recorded, then a certificate will be issued to the owner.

~~E. 3.~~ **3.** **The owner may then transfer the development rights to a transferee.**

~~F. 4.~~ **4.** Upon execution and delivery of the instruments of transfer, the transferee shall record the same, together with the certificate, in the office of the county recorder. The transferee will also file duplicates of the recorded instruments and certificate with the community development department. No transfer shall be effective until and unless the conveyances, the certificate, and the open space easement or deed restriction, are recorded in the office of the county recorder and copies of the recorded instruments filed with the community development department, as provided herein.

~~G. 5.~~ **5.** The community development department and the county recorder will keep records of issued certificates, the transfers and easements or deed restrictions, which shall be available for public inspection during normal working hours. Use of the index and files kept by the community development department shall be limited to determination of eligibility for transfer or acquisition; the official records of any such transfers shall be in the office of the county recorder.

~~H. 6.~~ **6.** Douglas County does not insure title or ownership of development rights, nor does it prepare the conveyances or instruments to effect the transfer.

7. The transferee must demonstrate ownership of the development rights and the ability to provide such rights to a receiving parcel during the submittal of a

tentative subdivision map and/or zoning map amendment. Ord. 968, 2001; Ord. 801, 1997; Ord. 763, 1996)

2.11 Prohibitions and Penalties

2.12 Interpretation and Conflict

2.13 Saving Provision

2.14 Effective Date and Repeal

Chapter 20.550-

Growth Management

Sections:

~~20.550.010 Capital improvements plan.~~

~~20.550.020 Budget procedure.~~

~~20.550.030 Plan revision.~~

~~20.550.010 Capital improvements plan.~~

~~With the planning commission's advice, comment and recommendation, acting as the capital improvements plan committee, the board shall annually adopt a short term capital improvements plan, which will plan for the construction and funding of capital improvements for the ensuing five years. (Ord. 763, 1996)~~

~~20.550.020 Budget procedure.~~

~~A. Budget. The county manager shall cause to be prepared and presented a capital improvements plan and budget, which shall include, but not be limited to the following:~~

~~1. A current inventory of capital improvement projects proposed by all county departments, including an estimated cost for each such project in current dollars and an estimate of ongoing costs for operation and maintenance of the same;~~

~~2. A list of ongoing projects, commenced in previous years, but not complete, with a summary of the progress, the funds committed, the funds spent, and the schedule for completion of each such project;~~

~~3. A summary of the funds and revenue sources available for capital improvements for the ensuing fiscal year and in the coming five years;~~

~~4. An analysis of the relative importance of the proposed improvements, which may include analyses of the levels of service provided by the various agencies and departments and the relationship between the capital improvements projects and the levels of service;~~

~~5. An analysis of the proposals in comparison with the adopted master plan and approved capital improvements program;~~

~~6. An analysis of the feasibility of using impact fees to fund improvements, to the extent that such imposition of such fees is permitted by law. (Ord. 763, 1996)~~

~~20.550.030 Plan revision.~~

~~A. The capital improvements plan will be presented for review to the planning commission in the fall of each year, and no later than its regular meeting in January, for its advice, comment and recommendations for the formation of the plan for the following five years. The planning commission shall consider and act upon the same on or before its regular meeting in February of each year, and forward its report to the board.~~

~~B. The tentative capital improvements budget and plan shall be considered by the board as part of the annual budget process, and the plan for the coming fiscal year and the four years thereafter shall be adopted no later than the adoption of the final budget in each fiscal year. (Ord. 763, 1996)~~

Chapter 20.560

Building Permit Allocation and Growth Management

Sections:

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~~20.560.020~~ **Applicability.**
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~~20.560.180~~ **2.13** Saving provision.
~~20.560.190~~ **2.14** Effective date and repeal.

~~20.560.010~~ **Short title.**

This chapter may be cited as the Douglas County Building Permit Allocation and Growth Management Ordinance. (Ord. 1199, 2007)

~~20.560.020~~ **2.01 Building Permit Allocation Applicability.**

A. Applicability: This chapter applies to all residential real property in Douglas County outside the portion of Douglas County within the Lake Tahoe Basin subject to the jurisdiction of the Tahoe Regional Planning Agency. (Ord. 1199, 2007)

~~20.560.030~~ **Legislative findings and purpose.**

A. **B. Legislative Findings:** The board finds and declares as follows:

1. A measure of sustained, balanced growth in Douglas County is both desirable and necessary for the continued viability of the community.
2. The health, safety and general welfare of the county's citizens dictate the continued availability of essential public facilities and services and the adequacy of natural community resources.

3. The ability to provide any one or more essential resources or services at the quality and quantity desired by the community is an integral part of the county's quality of life.

a. Growth experienced in the past, and pressures for continued growth indicate that Douglas County may reach capacity in the delivery of one or more of essential resources or services.

b. If capacity to provide an essential service or resource is reached, the board may stop residential growth for an interim period of time in all or a portion of the county.

c. The board declares that there are limits to the capacity or capability of the county or other agencies in its jurisdiction to deliver water, sewer, drainage, transportation services and facilities.

4. Management of population growth as provided in this chapter is necessary and desirable to preserve and enhance the quality of life for the communities and inhabitants of Douglas County.

B. **C. Growth Considerations:** The board finds and declares the following essential resources, facilities and services will be considered for the managed growth of Douglas County:

1. Water resources including, but not limited to, public and private water systems, and all other sources for domestic, industrial, agricultural and municipal use; the quantity, quality, and supply of water; and the capacity, system and infrastructure of systems.

2. Wastewater treatment, sanitary sewer and disposal systems, public and private; treatment and disposal capacity, system or infrastructure ability to transport sewage from a residential dwelling unit to the treatment system, as well as any consequences or potential consequences for public health caused by the use of individual sewage disposal systems.

3. Law enforcement and judicial facilities and services.

4. Fire protection facilities, equipment and services.

5. State, local and federal roads and highways, traffic and circulation.

6. Drainage systems, including storm sewer and flood protection.

7. School enrollment and capacity.

8. Community facilities and services, including senior services, public health, and parks and recreation.

9. Environmentally sensitive lands.

10. Affordable housing.

11. Agricultural resources.

12. Other resources, facilities and services as determined by the board.

C. **D. Growth Management System:** Based upon these findings, the board has determined that a workable and reasonably equitable system for the management of population growth, through the management of building permits for defined residential uses will be a part of the land development process. The provisions of this chapter achieve this purpose. (Ord. 1199, 2007)

~~20.560.040~~ Consistency with the master plan.

A. **C. Consistency with Master Plan:** This chapter is consistent with the text, goals and policies in the master plan for a building permit allocation system and chapter 278 of the Nevada Revised Statutes. All development must be consistent with these regulations.

B. **1.** This chapter results from extensive public hearings conducted before the planning commission and board pursuant to chapter 278 of NRS, ~~chapters 20.600 and 20.608~~ of this code, public hearings on natural resources, public services and facilities, and the plan implementation text, goals and policies of the master plan.

C. **2.** The board has considered a number of studies, data and reports, the suggestions of other government entities, comments of interested persons and recommendations of the planning commission in determining whether this chapter should be adopted. The board finds there is a need for the Douglas County Building Permit Allocation and Growth Management Ordinance to achieve the purposes stated in this chapter and to properly implement the text, goals and policies of the master plan.

~~20.560.050~~ 1.13 Measurements, Construction, and Code Terminology Definitions.

~~As used in sections 20.560.010 to 20.560.180, inclusive, unless the context otherwise requires, the following words and terms have the following meanings. Words and terms not defined in this section are as defined in appendix A of title 20 of the Douglas County Code or the Nevada Revised Statutes.~~

A. "Allocation". A right granted by the director pursuant to this chapter to make application for a building permit to build one dwelling unit. An allocation is not a guarantee of receiving approval for a building permit. Approval of the building permit itself will occur through the established building permit review process.

B. "Allocation period". A review period, generally three months in duration, commencing on the first day on which applications may be accepted for the allocation period and ending on the day preceding the first day on which applications may be accepted for the next allocation period.

C. "Applicant". The owner of a parcel of real property, who may be represented by an agent designated in writing, who applies for an allocation. The agency relationship must be disclosed on the application.

D. "Building permit". A building permit issued pursuant to the provisions of title 20.

E. "Development". The entire plan to construct or place one or more dwelling units on a particular lot, tract, parcel or contiguous parcels of land within the County, including but not limited to a subdivision, parcel map, planned development, specific plan, or manufactured or mobile home project.

F. "Development Agreement". An agreement approved pursuant to the provisions of chapter 20.400 or valid pursuant to section 20.01.070.

G. "Dwelling unit". Has the meaning as defined in appendix A of title 20 and includes manufactured homes. For purposes of this chapter, dwelling unit does not include time share or other fractional ownership of a dwelling unit, residential care facility, nursing home or other facility designated for the group care of its residents.

H. "Excess allocations". Unissued or unused allocations available for issuance at any time out of their respective pool(s).

I: "Final project approval". Board approval after the final public hearing.

J: "Individual pool". A group of allocations designated by the board for distribution to individuals including owners, contractors, and entities. Entities must show ownership interests of all natural persons or entities with more than 10 % ownership. An individual with multiple applications for individual pool allocations may only be issued one allocation per round.

K: "Permanently affordable unit". A dwelling unit that is deed restricted for a period of not less than 30 years for lease to households whose combined annual income from all sources is 80 percent or less than the County's median income or a dwelling unit that is deed restricted for not less than 15 years for individual sale to households whose combined annual income from all sources is 110 percent or less than the County's median income, or as otherwise defined by state law.

L: "Population". The number of people in Douglas County as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c). The tabulation of population reported by the Secretary of Commerce for a particular decennial census date will apply for purposes of this chapter from December 31 of the calendar year immediately following that decennial census date for the following decade unless a Special Census is performed during that period.

M: "Project". An approved subdivision map, planned development, specific plan or attached or semi-detached multi-family residential project.

N: "Project pool". A group of allocations designated by the board for distribution to projects.

O: "Pro-rata". A method of issuing allocations to applicants in the same proportion that the total number of available allocations bears to the total number of requested allocations.

P: "Special Census". Any census conducted pursuant to NRS 244.183 to determine the number of people in Douglas County at a time other than the time the National Decennial census is taken.

Q: "Successive rounds". A method of issuing allocations to applicants who have applied for more than one allocation in the individual pool or for more than five allocations in the project pool. The allocations are distributed through a series of rounds, in each round of the individual pool one allocation is issued to each individual applicant and each round of the project pool up to five allocations to each applicant until the applicant has received all allocations applied for or the supply of allocations is exhausted, whichever first occurs.

R: "Unused allocation". An allocation that is available to be issued or one that has been issued but for which a building permit has not been issued during its period of validity and has lapsed and is void or has been surrendered. (~~Ord. 1278, 2009; Ord. 1199, 2007~~)

~~20.560.060~~ 2.02 General provisions.

A. Allocation required for a building permit. Except as otherwise provided in this chapter, an allocation is required as a condition precedent to the issuance of a building permit that results in the creation of a new dwelling unit. For structures containing more than one dwelling unit, one allocation for each dwelling unit in the structure is required as a condition precedent to issuance of a building permit for the structure.

B. Replacement of dwelling unit. An existing or destroyed dwelling unit may be replaced with another dwelling unit without obtaining an allocation, provided that the replacement unit is located on the same parcel, tract or lot, and the owner obtains a building permit to replace the dwelling unit.

C. Period of validity. An allocation is valid and can only be used for a period of one year from the date of issue, unless it is issued under a banking and borrowing project plan provided in ~~section 20.560.150~~. At the end of the year an issued allocation lapses and is void, unless a complete application for a building permit has been filed and is under review, or as otherwise provided under the approved banking and borrowing plan. An extension may only be granted as provided in ~~section 20.560.110 (F)~~.

D. Use of allocations. An allocation is used by being issued a building permit

E. Building permit approvals. All building permit applications that require an allocation for issuance will be reviewed and processed in accordance with title 20.

F. Surrender of allocations. An allocation that a recipient does not expect to use during the period for which it is valid may be surrendered

G. Transferability. Allocations are parcel specific and are not transferable to other developments or owners. An allocation may only be transferred under section ~~20.560.140~~ or as part of an approved banking and borrowing program under section ~~20.560.150~~.

H. Periodic review. The board may during a master plan review, and must at every five year interval, commencing in 2011 review the growth of the population and the number of allocations used, the effect of growth on essential resources, facilities and services, and the quality of life for the communities and inhabitants of Douglas County to determine if there has been a change that requires amendment of this chapter. If the board determines that the administrative procedures of this chapter not affecting the total number of allocations must be changed based on its review, the changes may be made by the board in the form of an ordinance at any time. (~~Ord. 1235, 2008; Ord. 1199, 2007~~)

~~20.560.070~~ 2.03 Calculation of allocations.

A. Census Base Year: The base year for determination of population growth and the number of persons per household is the 2000 national decennial census conducted by the Bureau of Census of the United States Department of Commerce pursuant to section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 § 14(c).

B. Base Year Calculation: The base number of allocations is calculated using the Douglas County 2000 census data population, outside of the jurisdiction of the TRPA, estimated at 34,520. The rate of population growth is converted to households (dwelling units) by the use of

the census estimate of 2.5 persons per dwelling unit. A 2% growth factor applied to the 2000 census represents 276 dwelling units. Dwelling units are converted to allocations and increased at a 2% compounded annual rate resulting in a beginning base number of allocations for July 1, 2007 of 317 allocations.

C. **Annual Growth Formula:** The number of allocations is compounded annually at a rate of 2% for the 50 year planning period resulting in a total number of allocations of 26,812. Any modification in the total number of allocations or a modification in the 2% growth rate must be placed on the ballot by the County for an advisory vote prior to implementation of any modification.

D. **Exempt Unit Accounting:** The method used to account for those dwelling units that are exempt from the allocation provisions because of preexisting development agreements in ~~section 20.560.080~~ or vested projects in ~~section 20.560.090~~ is to reduce the number of allocations available for the development of new dwelling units over a 25 year period. The calculation of allocations available annually for distribution is as follows:

Table A

Year Count	July 1 Year	Total Allocations	Vested projects	Allocations available to distribute
1	2007	317	149	168
2	2008	323	151	172
3	2009	330	155	175
4	2010	336	158	178
5	2011	343	161	182
6	2012	350	164	186
7	2013	357	168	189
8	2014	364	171	193
9	2015	371	174	197

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Year Count	July 1 Year	Total Allocations	Vested projects	Allocations available to distribute
10	2016	379	178	201
11	2017	386	182	204
12	2018	394	186	208
13	2019	402	190	212
14	2020	410	194	216
15	2021	418	197	221
16	2022	427	200	227
17	2023	435	204	231
18	2024	444	208	236
19	2025	453	212	241
20	2026	462	217	245
21	2027	471	220	251
22	2028	480	225	255
23	2029	490	230	260
24	2030	500	234	266
25	2031	510	239	271

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Year Count	July 1 Year	Total Allocations	Vested projects	Allocations available to distribute
26	2032	520		520
27	2033	530		530
28	2034	541		541
29	2035	552		552
30	2036	563		563
31	2037	574		574
32	2038	586		586
33	2039	598		598
34	2040	609		609
35	2041	622		622
36	2042	634		634
37	2043	647		647
38	2044	660		660
39	2045	673		673
40	2046	686		686
41	2047	700		700

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Year Count	July 1 Year	Total Allocations	Vested projects	Allocations available to distribute
42	2048	714		714
43	2049	728		728
44	2050	743		743
45	2051	758		758
46	2052	773		773
47	2053	788		788
48	2054	804		804
49	2055	820		820
50	2056	837		837
Totals		26,812	4,767	22,045

(Ord. 1199, 2007)

~~20.560.080~~ 2.04 Projects with preexisting development agreements.

A. A project with a development agreement lawfully adopted prior to the effective date of this chapter, provided that any and all commitments, covenants, promises or other requirements of the development subject to an agreement are kept and performed, is exempt from the allocation provisions of this chapter.

B. If a project subject to a preexisting development agreement is granted a material modification to provide for an increase in density, the density increase will be subject to the allocation provisions of this chapter, and the original density must remain exempt from the provisions of this chapter.

C. If a project subject to a preexisting development agreement materially breaches the agreement or secures a material modification granting relief from requirements to

construct public improvements of regional significance; it will be subject to the provisions of this chapter.

D. Extensions of time will not be regarded as material modifications unless the extension relieves the owner of its obligations to construct public improvements of regional significance within the period provided in the original development agreement, in which case the provisions of this chapter will apply. If the county is a participant in paying for or constructing the public improvements of regional significance and agrees to extend the period of time for performance for both the county and the owner, the extension will not be regarded as a material modification under this section.

E. The building permits for these projects must be tracked by the community development department.

F. The number of building permits available to a project or projects with preexisting development agreements in any given year is not limited. (~~Ord. 1235, 2008; Ord. 1199, 2007~~)

~~20-560.090~~ 2.05 Projects subject to vesting.

A. Projects, including residential projects of more than four units that have received tentative subdivision or planned development approval, tentative serial parcel map approval with subdivision standards, or in the case of a multi-family project, final project approval, prior to the effective date of this chapter, will be considered vested. A list of vested projects will be approved by resolution of the board. Extensions of time for filing a final map will not affect the status of vested projects.

B. The building permits for these projects must be tracked by the community development department.

C. An applicant seeking vested status that has a tentative map approval or final approval before the effective date of this chapter and was not considered by the board for inclusion in the resolution with the list of vested projects will have the right to a hearing with the board.

D. The number of permits available to a vested project or projects in any given year is not limited. (~~Ord. 1199, 2007~~)

~~20-560.100~~ 2.06 Affordable housing projects and certain agricultural parcels.

The following categories of projects or parcels are exempt from the allocation provisions of this chapter. When an exemption is allowed, it will result in an equivalent reduction from the pool of excess allocations. If an exemption is allowed and there are no excess allocations, then the number of future allocations to be released will be reduced by an equivalent number. The total number of allocation allowed as exempt from the allocation provisions under this section will not exceed 2200 allocations over 50 years.

A. Permanently affordable dwelling units will be entitled to claim the exemption from the allocation provisions. To receive the exemption, the applicant must record deed restrictions on the parcels or obtain approval of an affordable housing agreement under ~~chapter 20-440~~ **Article 8.11 (*Density Bonus and Affordable Housing Agreements*)**, provided that the exemption will only apply to the affordable units.

B. Accessory dwellings on an A-19 agricultural parcel or A-19 agricultural parcels under common ownership in excess of 100 acres will be exempt from the allocation provisions. This exemption may be claimed for no more than one accessory dwelling per 100 acres.

C. A dwelling unit on a parcel created under the provisions of section 20.714.030 *Article 7.01(R)(1)(c) (Ranch Heritage Parcels)* Ranch-heritage parcels, or 20.714.040 *Article 7.01 (R)(1)(d) Agricultural 2-5 Acre Pparcels* will be exempt from the allocation provisions.

~~**D.**~~ The building permits for the projects with an exemption from the allocation provisions under this section must be tracked by the community development department. (~~Ord. 1482, 2017; Ord. 1235, 2008; Ord. 1199, 2007~~)

~~20.560.110~~ **2.07 Allocation Procedures and Administration.**

~~**A.**~~ **A. Allocation and Application Process:** The board, after accounting for banking and borrowing, will distribute the year's available allocations into the project pool and the individual pool by resolution. If the board determines that too many allocations have been distributed to either pool it may redistribute allocations by resolution.

~~**B.**~~ **1.** Allocations ~~must~~ **shall** be released quarterly, with each allocation period **consisting of** having a one-month application period and a two-month period for issuance of allocations. The allocations in each pool ~~must~~ **shall** be divided equally between the 4 allocation periods, with any remainder placed in the first allocation period.

~~**a.**~~ For the ~~first~~ allocation period: ~~Applications must be filed~~ **accepted** in July; and allocations issued in August and September.

~~**b.**~~ **Second allocation period:** ~~Allocations may be applied for and distributed in the same manner for the second allocation period from October 1 through December 31.~~

~~**c.**~~ ~~the~~ **Third allocation period:** ~~from January 1 to March 30.~~

~~**d.**~~ ~~and the~~ **Fourth allocation period:** ~~from April 1 to June 30.~~

~~**E.**~~ **2.** General provisions for allocations.

~~1.~~ **a.** Allocations will be distributed based on the time and date of the receipt of the allocation application, with the approved completed applications that are earliest being distributed first.

~~2.~~ **b.** An applicant may submit multiple applications during the application period.

~~3.~~ **c.** If there are more applications than allocations in the pool in the allocation period, the applicants that do not receive an allocation are automatically included in the next allocation period with the original time and date of application.

~~4.~~ **d.** Excess allocations, if not credited for projects under 20.560.100 *Article 2.06 (Affordable Housing Projects and Certain Agricultural Parcels)*, will be carried over in their respective pools from allocation period to allocation period. Until the board determines a different distribution, excess allocations will be distributed out of their respective pools prior to the issuance of any quarterly allocations out of each pool. When excess allocations exist, an applicant may submit an application at any time and an allocation will be issued or denied within 10 working days. If no excess allocations exist, an applicant must submit an application pursuant to **Article 2.07 (A)(1) (Allocation Procedures and Administration)**. ~~subsection (B), above.~~

~~D.~~ **3.** For the individual pool, a single allocation per individual applicant will be distributed in successive rounds until the allocations are used.

~~E.~~ **4.** For the project pool, allocations will be distributed with up to 5 allocations per applicant, in successive rounds.

~~F.~~ **5.** The applicant must file a completed application for a building permit within one year of the issuance of an allocation, together with the deposit required. The director may grant a single 6-month extension to an applicant upon a showing of good cause, which must include a showing of material progress toward the submission of a completed building permit application. Upon notification from the building department that the building permit application has been approved, the applicant must meet all the requirements for the issuance of the permit, including payment of all applicable fees. If a completed application for a building permit has not been submitted within the period provided, the allocation will lapse and may be redistributed according to the provisions of this chapter.

~~G.~~ **6.** There will be no refunds of application, extension, transfer or other fees collected pursuant to this chapter, even if an allocation, building permit application or building permit expires. Refunds of building permit application or building permit fees will be based on the provisions of ~~T~~title 20.

~~H.~~ **7.** Fees provided in this chapter will be set by resolution adopted by the board.

~~I.~~ **8.** All applications filed by or on behalf of an owner will be imputed to the owner and considered as having been filed in the owner's name for purposes of distribution of the allocations.

~~J.~~ **9.** The board may adopt additional policies and procedures for the distribution of allocations consistent with **Article 2.07 (Allocation Procedures and Administration)** this chapter and **Article 2.02 (General Provisions)** section 20.560.060(H). (~~Ord. 1278, 2009; Ord. 1199, 2007~~)

~~20.560.120~~ **B. Effect of procedures.**

~~A.~~ **1.** Construction of a dwelling unit with an allocation requires the issuance of a building permit, approval of all required plans and payment of all required fees.

~~B.~~ **2.** In the event that a moratorium is declared as the result of local, regional, state or national emergency, or for any other reason that concerns the capacity of an essential public facility or resource, the property owner who holds an allocation may, at the option of the board, be declared to be subject to the provisions of the moratorium.

~~C.~~ **3.** An allocation does not vest property rights related to the density of a parcel of land at a quantity greater than the density permitted by the master plan or zoning code in effect at the time application is submitted for a building permit.

~~D.~~ **4.** The number of allocations for a single parcel of land that a property owner may purchase will be based only on an approved project or a legally existing parcel of land. (~~Ord. 1199, 2007~~)

~~20.560.130~~ **C. Administration and appeals.**

~~A.~~ **1.** Allocations will be issued as certificates with serial numbers. A log must be maintained by the building department recording the serial numbers of issued allocation certificates, building permit numbers issued for the allocation, relevant dates and

corresponding assessor's parcel numbers and addresses. The log will also contain any other information deemed relevant by the director for the keeping of records and administration of this chapter.

~~B.~~ **2.** The director will be the final decision-maker for this chapter, except for those provisions designated for decision by the board. The appeal of the decision of the director is to the board and must be pursuant to the provisions of ~~chapter 20.28.~~ (Ord. 1199, 2007)

~~20.560.140~~ **2.08 Transfer of allocations.**

A. The director may approve a transfer of an allocation to a parcel other than the parcel to which the allocation has been assigned under the following circumstances:

1. The parcel of land assigned an allocation is found to be unbuildable based on physical characteristics of the land, slope, seismic characteristics, potential for flooding, natural resources, or other physical aspects of development applicable to the specific parcel which were not known at the time the allocation was issued. If an allocation is transferred because a parcel is found to be unbuildable under this subsection the owner of that parcel or their successor will not be eligible for an allocation for that parcel again in the absence of changed circumstances.

2. An action of the county has resulted in reduction of density applicable to the subject property and the allocation was purchased prior to the public action changing the density.

3. The transfer is made to another parcel within the same project under the same ownership.

B. The director may approve a transfer of an allocation to a purchaser of the parcel to which the allocation has been assigned under the following circumstances:

1. The property owner had complied in good faith with the procedures and policies of the county, and due to personal circumstances beyond the control of the property owner, is unable to proceed with construction of the approved dwelling. This provision is intended to apply to circumstances such as, and not limited to, death of a family member, serious or debilitating illness, loss of employment, or extraordinary change in personal financial circumstances that would preclude proceeding with construction. A relocation to accept new employment is generally not considered an acceptable reason for the director to allow a transfer of an allocation to another owner.

2. The property owner must relocate in response to military orders.

C. The approved transfer of an allocation does not extend the allocation's period of validity as defined in **Article 2.02 (General Provisions).** ~~Section 20.560.060(D).~~

D. In order to transfer an allocation, the property owner must petition the director by submitting an application containing the information deemed necessary by the director. The petition must be accompanied by a fee, in an amount set by resolution of the board, to cover the costs of review and investigation.

E. The application at a minimum must contain the property owner's name, mailing address, and daytime phone number, the address of the subject property, the assessor parcel number, and the circumstances under which the transfer is being sought. In addition, the property owner must submit proof that an allocation has been issued for the subject property.

F. The director must consider the petition and may either approve, approve subject to conditions, or deny the petition in writing. The director must base the decision on the criteria in subsection A or B of this section.

~~G. Appeal of a denial of a petition to transfer is to the board as provided in section 20.560.130(B).—(Ord. 1199, 2007)~~

~~20.560.150~~ 2.09 Banking and borrowing.

A. Banking and borrowing is a procedure that takes allocations available over multiple years and makes them available to a single project. If a proposed residential subdivision, planned development of more than four units, or attached or semi-detached multi-family residential project requires more allocations than are available in a single allocation period, the applicant may request banking of current allocations and borrowing of future allocations. The following provisions govern banking and borrowing.

~~A.~~ **1.** Banking and borrowing may only be allowed as part of a development agreement between an applicant and the county.

~~B.~~ **2.** The cumulative number of allocations taken by all projects requesting to bank and borrow may not exceed 40% of any year's allocations available to distribute (per Table A).

~~C.~~ **3.** A project may not bank and borrow allocations that exceed the unit count in its development agreement.

~~D.~~ **4.** A project containing 40 or more units may bank and borrow from the allocations available to distribute within 10 years of the approval of each phase in a phasing plan map or a final project approval for a multi-family project as provided for in the development agreement.

~~E.~~ **5.** A project containing fewer than 40 units may bank or borrow from the allocations available to distribute within 3 years of the approval of a tentative map as provided for in the development agreement or a final project approval for a multi-family project.

~~F.~~ **6.** A project requesting banking and borrowing may apply for any available allocations in the project pool in its first year, which may be banked for use in the project's first phase.

~~G.~~ **7.** Banked and borrowed allocations may be used at any time during the life of the phase of a phasing plan pursuant to the development agreement.

~~H.~~ **8.** The number of banked and borrowed allocations in each year must be accounted for through the reduction of an equal number of allocations from the allocations available to distribute for that year. The director will account for each project that secures allocations pursuant to this section, and for project totals.

~~I.~~ **9.** Projects that bank and borrow allocations are subject to an additional fee to be set by resolution of the board.

~~J.~~ **10.** Any project that proposes to bank and borrow must comply with **Article 8.10 (Development Agreements)** ~~chapter 20.400~~ and meet the following criteria, all of which are subject to affirmative findings by the board:

~~1.~~ **a.** The number of allocations required to support the project will not significantly reduce the number of allocations available to future projects that may require banking and borrowing.

~~2.~~ **b.** The project may secure allocations through banking and borrowing in order to provide a development schedule that is necessary for the project:

~~a.~~ **1.** To support the construction of improvements necessary for public health and safety.

~~b.~~ **2.** To make the phasing of development economically viable.

~~c.~~ **3.** To demonstrate the financial security to recover the capital investment for public infrastructure necessary to meet required capacity standards for development completed through a phased process.

~~d.~~ **4.** To repay, if necessary, the public sector for the financing infrastructure or other facility improvements. (~~Ord. 1199, 2007~~)

~~20-560.160~~ **2.11 Prohibitions and penalties.**

A. It is unlawful for any person to:

1. Construct, cause or initiate construction of any structure for which an allocation or building permit is required or to connect or cause the connection of any structure, mobile home or vehicle with any public or private water or sewer system without an allocation or building permit.

2. Obtain, issue or transfer an allocation or any interest in any allocation except as provided in this chapter.

3. Falsely certify or misrepresent any interest in realty or enter into any fraudulent contract or contrived contract or transaction for selling or buying realty for purposes of evading an allocation limitation provided in response to this chapter.

B. Any violation of this section will be punished by a misdemeanor. In addition, upon proof of conviction, the property owner convicted will not be eligible to apply for an allocation or residential building permit in the current or following calendar year.

C. Enforcement of this chapter is by the director and the building official with the assistance of the district attorney.

D. Allocations will be void and canceled by the director if fees are paid by insufficient funds check. (~~Ord. 1199, 2007~~)

~~20-560.170~~ **2.12 Interpretation and conflict.**

A. In their interpretation and application, the provisions of this chapter must be held to be the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare, and must be construed broadly to promote the purposes for which they are adopted. The provisions of this chapter are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as expressly provided for in this chapter. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation of the county or other provision of law, the provision that is more restrictive or imposes higher standards controls. (~~Ord. 1199, 2007~~)

~~20.560.190~~ 2.13 Saving provision.

A. The provisions of this title must not be construed as abating any action now pending under, or by virtue of, prior existing land development regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the County under any chapter or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the county except as expressly provided for in these regulations. (~~Ord. 1199, 2007~~)

~~20.560.190~~ 2.14 Effective date and repeal.

A. This chapter is effective on July 1, 2007 and will remain in effect unless modified or superseded by other legislation, in the manner provided by law. The approval of this ordinance establishing a building permit cap under the Master Plan repeals the Sustainable Growth Initiative approved by the voters on November 5, 2002 and effective November 7, 2002, as Question 4, and the board will cause this ordinance to be placed on the ballot as an advisory question for the general election of November 2008. (~~Ord. 1199, 2007~~)

