

## Chapter 9 INCENTIVES

### §9.1 | General

#### 9.1.1 | Review and Approval Procedure

Projects requesting bonuses under this chapter for land that has not been platted, or for land that is being voluntarily replatted, shall be reviewed during the Subdivision process. Projects requesting bonuses under this chapter that have already completed the subdivision process shall be required to obtain approval of an Administrative Review or Major Subdivision if lot lines will be changed, or shall be required to obtain approval for a Site Plan if lot lines will not be changed. A separate rezoning process shall not be necessary to approve the density increases granted through these processes.

#### 9.1.2 | Combination with Other Bonuses

Unless otherwise expressly stated, the bonuses listed in this chapter may be combined, provided the following conditions are met:

- A. In Urban Residential or Nonresidential zoning districts, the total cumulative bonus allowed shall not exceed the maximum density allowed in the underlying zone district by more than twenty percent (20%).
- B. In the AFT and AF35 zone districts, the total cumulative bonus allowed shall not exceed the maximum density allowed in the AFT and AF-35 zone districts by more than fifty percent (50%).
- C. In the AFT zone district, the total cumulative bonus allowed shall not exceed fifty percent (50%) of the number of units that would be allowed otherwise.

#### 9.1.3 | No Guarantee of Density

The provisions of this chapter shall not be interpreted as guarantees of achievable density. Developments using bonus provisions shall be subject to all other applicable regulations of this Land Development Code. These other regulations or site-specific conditions may prevent bonus density levels from being achieved due to the character of the land or surrounding uses.

### §9.2 | General Density Bonus

Applicants may obtain a density bonus of up to ten percent (10%) of the maximum density allowed in the underlying base zoning district if all of the following conditions are met:

- A. the property must be located within:
  1. an RSF-R, RSF-1, RSF-2, RSF-4, RMF-5, or RMF-8 zoning district; or
  2. the Rural Communities of Gateway, Loma, Mack, Mesa, Powderhorn, or Whitewater; and
- B. the development that receives the density bonus must be located to avoid and minimize adverse impacts on agricultural operations, sensitive lands (e.g., wetlands, steep slopes, ridgelines), wildlife, and natural hazards.

### §9.3 | Joint Subdivision Bonus

In order to encourage integrated planning for adjacent subdivisions, applications for a Major Subdivision shall be eligible for a density bonus of 10 percent. if they:

- A. are submitted jointly for two or more parcels owned by two or more adjacent property owners;
- B. include an integrated circulation and access pattern covering all parcels; and
- C. contain at least twenty (20) acres and six hundred and sixty (660) feet of frontage on a public road.

**§9.4 | Removal of Urban Nonconforming Use Bonus**

In order to encourage the removal of nonconforming uses in Urban Residential zoning districts, applications for redevelopment of land containing nonconforming uses in such zoning districts shall be eligible for a density bonus of 10 percent if they:

- A. will remove the nonconforming use and any nonconforming structures on the land; and
- B. will include only permitted, conditional, accessory and temporary uses, allowed uses, and conforming structures.

**§9.5 | Urban Residential Cluster Bonuses**

**9.5.1 | Eligibility**

Applicants for single family developments located within those portions of the RSF-1, RSF-2, RSF-4, RMF-5, and RMF-8 Zone Districts may obtain a density bonus of up to twenty percent (20%) under the following conditions:

- A. the units must be clustered to preserve at least thirty percent (30%) of the site in contiguous, common open space located along natural drainage corridors or adjacent to existing open space;
- B. prior to construction of the units, the required open space must be (1) preserved from development for a period of at least forty (40) years through the use of a recorded deed restriction and (2) conveyed to a Property Owner's Association or other organization with responsibility for maintenance of the open space and the ability to collect assessments or dues for such purpose.

**9.5.2 | Buffering**

The perimeter of a cluster development shall be buffered from adjacent property pursuant to the applicable Landscaping and Buffering Standards in Section 7.2 of this Land Development Code.

**§9.6 | Urban Residential Attainable Housing Bonus**

Attainable housing bonuses shall be granted for units within the RSF-R, RSF-E, RSF-1, RSF-2, RSF-4, RMF-5 or RMF-8 Zoning Districts that the applicant commits to restricting for occupancy at "affordable" levels in accordance with Department of Housing and Urban Development income guidelines and definitions. Attainable housing units must be dispersed throughout the proposed project, and the mechanism used to restrict the units must be approved by the Board of County Commissioners after considering the recommendations of the appropriate state and/or federal housing agency. Bonuses shall be given as follows:

Income Group (HUD)	Bonus
Very-Low Income	1 bonus unit per each unit restricted to Very-Low Income households
Low Income	1 bonus unit per each 2 units restricted to Low Income households
Moderate Income	1 bonus unit per each 4 units restricted to Moderate Income households

**§9.7 | Rural Cluster Density Bonus**

Proposed Major Subdivisions within the AFT and AF35 Zone Districts may obtain a density bonus calculated pursuant to Section 6.3.3 of this Code.

**§9.8 | Transferable Density Credits**

The Mesa Countywide Land Use Plan recommends Mesa County initiate a program for Transfer of Development Rights or Credits (TDR/C) in order to provide an alternative to subdivision of land. Such a program is not intended to provide additional density to a sending site that has been previously subdivided. The program is also intended to encourage growth to locate in urban and rural community areas with adequate infrastructure in place to service higher density residential development. This Section of the Code provides a mechanism for landowners in Sending Areas to receive compensation for either not developing or

limiting the development of their property, and an opportunity for landowners in Receiving Areas to obtain a higher return on investment through developing at an increased density.

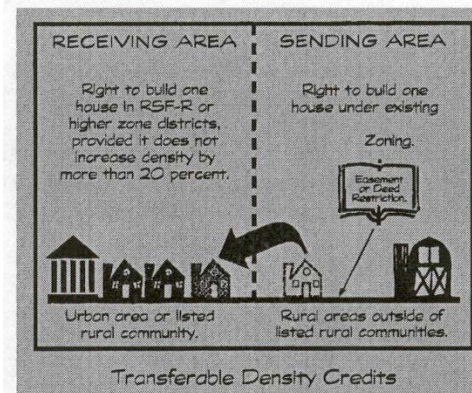
Transferable Development Rights/Credits (TDR/C) may only be transferred from specified Sending Areas to specified Receiving Areas. A landowner in a Sending Area may voluntarily sell the Development Rights/Credits to a buyer at a market value established by the landowner and the buyer. Prior to the time of the sale, a Deed Restriction through a Declaration of Restriction of Development and Easement, is recorded with the Mesa County Clerk's Office, limiting the future development potential of the Sending Site. A TDR/C Certificate is then issued by Mesa County identifying the number of Transferred Development Rights/Credits, and the book and page numbers of the recorded Declaration of Restriction of Development and Easement.

TDR credits shall be severed from a Sending Site prior to subdivision of a Sending Site, and after subdivision of the Sending Site only the unrestricted (remainder) area of the site shall be considered in the determination of allowable density of future development of the unrestricted portion of the Sending Site (the remainder). Future development of a Sending Site is then limited to the remaining density not extinguished by the creation of one or more TDR/C's, and future development of the unrestricted portion of the Sending Site is subject to Cluster Development standards under Section 6.4.4 of this Code.

9.8.1| Sending Sites

A. Sending Sites shall:

1. be located in a Sending Area, as defined in Section 12.1;
2. be a minimum parcel size of:
  - a. ten (10) acres in the AFT and AF35 zoning districts;
  - b. five (5) acres in an Urban Residential, Commercial and Industrial zoning districts
3. be located in the AFT, AF35, Commercial, Industrial or an Urban Residential zoning district;
4. be eligible to receive one (1) TDR/C per five (5) acres placed under Deed Restriction through a Declaration of Restriction of Development and Easement;
5. not include any land area within a 100 year floodway (acreage within a floodway is not eligible for the TDR/C program; such a condition does not negate the remaining portion of the land from being an otherwise eligible Sending Site); and
6. be a parcel of land eligible under this Code for potential subdivision into one or more lots as allowed by the current zoning of the property.



B. The issuance of TDR/Cs from the Sending Site must be evidenced by a Transferable Development Right/Credit Certificate issued by Mesa County. In order to issue the TDR/C Certificate, a Declaration of Restriction of Development and Easement on a form made available by the Planning and Economic Development Department signed by the owner of record from which Transferable Development Rights/Credits are being transferred must be presented to the Mesa County Planning and Economic Development Department, and shall clearly identify:

1. the grantor;
2. the legal description of both the Sending Site from which the Transferable Development Rights/Credits are being transferred and the specific portion of the Sending Site being restricted from future development through the transfer ; and

3. the number of TDR/Cs being transferred from the Sending Site.
- C. The Declaration of Restriction of Development and Easement shall be recorded in the real property records of Mesa County clearly stating the number of Development Rights/Credits that have been transferred. The Declaration of Restriction of Development and Easement shall be for a period of thirty (30) years.
1. If TDR/C have not been used, in whole or in part, within ten (10) years, the owner of record of the sending site may seek to have the Declaration of Restriction of Development and Easement removed through the same process by which it was created.
    - a. If a portion of the TDR/C has been used, the Declaration of Restriction of Development and Easement may not be removed prior to the end of the original period.
  2. Owners of record of sending sites that were approved prior to January 1, 2016 and that have not used the TDR/C in whole or in part may seek to amend the Declaration of Restriction of Development and Easement to remove the requirement for perpetual restriction and establish a new period of thirty (30) years, retroactive to the original date of the establishment of the TDR/C. The amendment shall be modified through the same process by which it was created.
- D. Upon recordation of the Declaration of Restriction of Development and Easement, a TDR/C Certificate(s) shall be issued by Mesa County identifying the number of Development Rights/Credits transferred, and the book and page number of the recorded Declaration of Restriction of Development and Easement.
- E. Once a TDR/C Certificate is issued:
1. future development of the unrestricted portion of the Sending Site is limited to any remaining density not severed or extinguished by the transfer of Development Rights/Credits;
  2. the Sending Site may only be developed as a Cluster Development under Section 6.4.4 of the Mesa County Land Development Code; and
  3. no rezoning of the Sending Site to a higher density or other use shall be permitted by Mesa County.
- F. An owner of record of a Sending Site or an applicant interested in participating in the TDR/C Program shall contact the Mesa County Planning and Economic Development Department to schedule a pre-application conference to review the process and an estimate of the TDR/Cs that may be sold and the associated future site development restrictions that may apply on the subject property.
- G. An owner of record of a Sending Site choosing not to participate in the TDR/C Program shall retain the option to develop their property as otherwise provided for by the Mesa County Land Development Code.
- H. Special Sending Areas
1. **Sending Area Eligibility Criteria**  
Special sending areas must first meet a minimum score on an eligibility score sheet on forms provided by the Mesa County Planning and Economic Development Department.
  2. **Receiving Areas**  
Special Sending Area TDR Credits are eligible to be sent to a variety of designated receiving areas. Limits or caps on the total number of credits that may be transferred to a given Receiving Area are detailed in the applicable Receiving Area program regulations in Section 9.8.2 below (e.g., Clifton/Fruitvale, Mack, and Whitewater programs).
  3. **Sending/Receiving Ratio of 1:5**

Each Special Sending Area TDR credit is worth 5 dwelling units in a receiving area.

### 9.8.2 Receiving Areas

- A. Receiving Areas are as shown on the TDR/C Receiving Area Map(s), the official copy of which is on file in the Mesa County Planning and Economic Development Department, and incorporated herein by reference. Receiving Areas (each having a specified Sending Area) also include those portions of the Grand Junction Comprehensive Plan area located in the RSF-R, RSF-E, RSF-1, RSF-2, RSF-4, RMF-8, and RMF-24 zoning districts, and the Rural Communities of Gateway, Loma, Mack, Mesa, Powderhorn, and Whitewater as identified in the Mesa County Master Plan.
- B. Fruita Receiving Area  
As identified in the Transfer of Development Rights/Credits Program Agreement between Mesa County and the City of Fruita:
1. TDR/Cs may be used on Receiving Sites to achieve additional density only through the City of Fruita's development review process; and in no case shall Mesa County apply TDR/Cs to achieve additional density in any development application processed by Mesa County.
  2. An owner of record within the Receiving Area choosing not to participate in the TDR/C Program shall retain the option to develop their property as provided for by the Mesa County Land Development Code.
  3. Owners of Receiving Sites participating in the TDR/C Program are subject to an annexation petition or pre-annexation agreement with the City of Fruita,
  4. Mesa County shall not process any development application on an eligible Receiving Site unless and until either:
    - a. the landowner certifies in writing that said landowner has elected to not participate in the TDR/C Program,
    - b. ii. the City of Fruita rejects the annexation petition,
    - c. iii. the City of Fruita revokes the pre-annexation agreement, or
    - d. iv. the City of Fruita otherwise irrevocably declines to annex the Receiving Site.
  5. TDR/C Certificates proposed for use on a Receiving Site in Fruita must originate from a Sending Area identified for the Fruita/Mesa County TDR/C Program.
  6. The County shall cooperate with the City of Fruita to ensure that this obligation and relationship is fully implemented.
- C. Other Municipal Receiving Areas  
Receiving Areas within incorporated municipalities shall be subject to the terms of any Intergovernmental Agreements between Mesa County and the respective municipality.
- D. Mack Receiving Area
1. Tier 2 of the Mack Overlay District is designated as a Receiving Area for Transfer of Development Rights/Credits (TDR/C).
  2. The Mack Sending Area is that area within the Large Lot Rural/ Agricultural 35+ and the Rural/ Agricultural 35+ future land use classifications located within the Lower Valley as identified in the Mesa County Rural Master Plan north of the Colorado River.

3. Transfer of Development Rights/Certificates proposed for use on a Receiving Site (Tier 2) in the Mack Receiving Area must originate from a Sending Site within the Sending Area cited in #2 above.
  4. Transfer of Development Rights/Credits may be used on Receiving Sites (Tier 2) to achieve the minimum lot sizes allowed in Tier 1. One additional lot is allowed for each Transfer of Development Right/Credit.
  5. An owner of record within the Receiving Area choosing not to participate in the TDR/C Program shall retain the option to develop their property as provided for by the Mesa County Land Development Code and/or Appendix A, the Mack Overlay District.
  6. If the TDR/C program is used on a Receiving Site, the Mack Overlay District zone shall apply.
- E. Clifton/Fruitvale Receiving Area
1. The Clifton/Fruitvale Receiving Area for Transfer of Development Rights/Credits (TDR/C) is any property in the “eastern expansion” area of the Clifton-Fruitvale planning boundary that has a future land use classification of Residential Medium Low (RML) or Residential Medium (RM) in the Clifton/Fruitvale Community Plan.
  2. Residential development may be permitted at the implementing density within the future land use classification of a Receiving Site. Development of a Receiving Site at a density higher than the maximum residential density in the future land use classification may be achieved through the TDR/C program and implemented through the use of a Planned Use Development zone. Density may be increased to that of one zoning district higher than the maximum allowed by the implementing zoning districts, i.e., to RMF-5 in the RML future land use and to RMF-12 in the RM future land use.
  3. The primary Sending Area for the Clifton/Fruitvale TDR/C program is the Palisade Community Separator (Buffer Zone). The sending/receiving ratio from the Palisade Community Separator Sending Area is 1:8. Each TDR credit issued from the Palisade Community Separator (Buffer Zone) is worth 8 dwelling units in the Clifton/Fruitvale Receiving Area.
  4. Special Sending Areas. No more than 319 units may be transferred to the Clifton/Fruitvale Receiving Area from Special Sending Areas. This is approximately sixteen percent (16%) of the estimated total 2079 units the Clifton/Fruitvale Receiving Area can accept. The sending/receiving ratio is established above in Section 9.8.1.H.
- F. Whitewater Receiving Area
1. The Whitewater Receiving Area for Transfer of Development Rights/Credits (TDR/C) is limited to designated Bureau of Land Management properties shown in the Whitewater Community Plan as TDR/C / Open Space. If these parcels are obtained for private use, residential density higher than one unit per thirty-five (35) acres can be achieved only through the TDR/C program.
  2. Residential development within the Whitewater Receiving Area may be permitted at a density of one unit per 35 acres as a use by right. Through the TDR/C program allowed densities in the Whitewater Receiving Area the same as adjacent private lands as shown in the Whitewater Community Plan (Residential Low – ½ acre to 2 acre densities). Development of a Receiving Site in the Whitewater Receiving Area can only be achieved through the TDR/C program.
  3. The primary Sending Area for the Whitewater TDR/C is the area designated in the Whitewater/Kannah Creek area as Large Lot Rural Agricultural 35+ (LL R/A 35+) on the Mesa County 2006 Rural Area Future Land Use Map. The sending/receiving ratio from the Whitewater/Kannah Creek area is 1:7. Each TDR credit issued from the Whitewater/Kannah Creek area is worth 7 dwelling units in the Whitewater Receiving Area.

4. Special Sending Areas. No more than 120 units may be transferred to the Whitewater Receiving Area from Special Sending Areas. This is approximately twenty-five percent (25%) of the estimated 480 units the Receiving Area can accept. The sending/receiving ratio is established above in Section 9.8.1.H.

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