



## Planning and Zoning Commission Memorandum

Meeting Date: May 9, 2024

**TITLE:** Community Housing Inclusionary Requirements – Code Text Amendment Public Hearing

**SUBMITTING DEPARTMENT:** Planning Department

**ATTACHMENTS:**

- A – Draft UDC Amendments
- B – Current UDC Regulations
- C – Town of Carbondale Community Housing Guidelines
- D – Town of Carbondale Community Housing Plan (2023)
- E – 2024 Carbondale AMI Limits
- F – Other Jurisdictions Regulations

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### **BACKGROUND:**

On January 10, 2023, the Board of Trustees (BOT) approved the Town of Carbondale Community Housing Plan (Attachment D). This plan overviewed the Town's efforts towards mitigating the impact of market-rate housing construction on the limited supply of available land and setting forth goals and strategies to increase the availability of community housing. One of the main goals of this plan is to double the number of deed-restricted, rental-capped, and town-owned units by 2032. One of the strategies identified is to explore additional affordable housing requirements for new commercial and residential developments.

The Community Housing Plan referenced the 2019 Greater Roaring Fork Regional Housing Study to identify the existing housing gap and to better understand the local housing market. In addition, recent efforts by the West Mountain Regional Housing Coalition and the 2022 Comprehensive Plan have increased community support and identified strategies to support affordable housing development. In addition, the Town approved Community Housing Guidelines in 2016 with annual updates to Area Median Income (AMI) limits (Attachments C and E).

One of the major focus areas of the 2022 Comprehensive Plan was housing which is woven throughout the document with Section 5.2 and Implementation Matrix Goal Topic 3 devoted to housing. The plan makes several recommendations regarding housing and specifically includes, in the Implementation Matrix, a medium-term goal of "Evaluate performance and outcomes of the Town's inclusionary residential requirements and adjust accordingly" (Goal 3.3). Given the local efforts and well-documented housing affordability challenges, the Trustees requested a current analysis of Carbondale's regulations.

### Prior Meetings

A worksession with the BOT was held on November 28, 2023. At that meeting, the BOT discussed the existing regulations and provided the following direction:

1. Update regulations to prepare for the next wave of development.
2. Pursue a greater number of ownership projects.
3. More aggressive regulations for rental projects.
4. Consider appreciation caps for R.O. units.
5. Direct staff to pursue a regulation update with the minimum changes being reducing the project exemption from residential developments greater than 4 units to 3 units and increasing the mitigation rate from 20% to 25%.

At the meeting, the BOT initiated a Code Text Amendment to amend Section 5.11 of the Unified Development Code (UDC) regulations related to Community Housing Inclusionary Requirements (aka "inclusionary zoning").

The Planning and Zoning Commission (P&Z) held a public hearing on March 14, 2024. At that meeting, the P&Z provided the following comments:

1. A desire to increase awareness and outreach to interested parties.
2. Potential bolstering of incentives to help improve development feasibility.
3. Consideration of "For-Rent" requirements due to the market shift in developing rental projects.
4. Commercial project mitigation makes sense, but unsure if this is the right time to implement new regulations.
5. Concern was expressed about the impacts of housing mitigation on the development of commercial projects.
6. Appreciation for the simplicity of Carbondale's current regulations when compared to other more complex requirements.
7. Consideration of lower credits for off-site mitigation as opposed to on-site mitigation.

In addition, the P&Z held a public hearing on April 11, 2024. No additional dialogue occurred at the meeting and it was continued to May 9<sup>th</sup>.

### Public Notice

The Public Hearing before the Planning and Zoning Commission (P&Z) was publicly noticed in the Sopris Sun on February 22, 2024. In addition, Town Hall was posted on February 22, 2024 with public hearing notices. As stated previously, the public hearing was continued on March 14 and April 11, 2024.

Since the April 11<sup>th</sup> meeting, Staff has pursued additional public outreach to help inform interested parties of the topic and this meeting. A public service announcement and email blast was sent to 542 people, including contractors, architects, and landscape architects who have submitted building permits in Carbondale in the last few years. A second email was sent to a curated list of architects, developers, planners, and landowners who have worked on planning department projects in the past few years.

### **DISCUSSION:**

Carbondale first adopted inclusionary zoning requirements through Ordinance No. 27, Series of 2001 creating Chapter 15.25 of the Municipal Code. These regulations were amended through Ordinance No. 7, Series of 2008 to resemble the present regulations. In addition, regulations for incentives for developers of qualified affordable housing existed in Title 17, Subdivision

Regulations. With the adoption of the UDC, these related regulations were brought into the same section of code. Carbondale's current regulations are attached to this memo (Attachment B). A summary of these regulations follows:

#### Applicability

All new residential developments greater than 4 units are required to mitigate the new development.

#### Rate of Mitigation

1. 20% of total units shall be provided as Community Housing AMI units (AMI units) and shall include 15% of the total bedrooms; and,
2. 20% of the remaining units shall be Resident Owner-Occupied units (RO units).

It is important to note that for-sale units historically have been required to meet both mitigations, while rental units have only met the first mitigation. The rationale is that rental units inherently house full-time residents and thus meet the intent of the RO units.

#### Rate of Affordability

Units provided follow and repeat the cycle:

1. Category 2 (100% AMI);
2. Category 1 (80% AMI);
3. Category 3 (120% AMI); and,
4. Category 4 (150% AMI).

#### Incentives

Qualified developers of affordable housing are eligible for exemptions of a portion of the following fees: land use applications; professional fees; special studies; building permits and plan check fees; and park development fees. These incentives are limited to for-sale properties and are based on the size and AMI of the unit.

When reviewing development applications, Staff also applies the Town of Carbondale Community Guidelines, as required by UDC §5.11.6.B and 5.11.10 (Attachment C). Of note these guidelines provide direction on the sizes of units based on AMI category and other design considerations.

#### Other Jurisdictions Regulations

Staff surveyed several other community regulations including those within the Roaring Fork, Eagle, and Colorado river valleys. A summary of each community's regulations is provided in Attachment F.

Most communities surveyed had inclusionary zoning requirements for residential development. While only a small number (Aspen, Pitkin County, Vail, Avon, Crested Butte, and Eagle County) required housing mitigation for non-residential development. Based on the location, commercial requirements tended towards more resort-oriented communities.

There are generally two approaches to requiring deed-restricted housing. The first approach is to require a percentage of the overall development, which is Carbondale's approach. The second approach is to tie the requirement to the number of employees or jobs created, often referred to as commercial linkage. This approach tends to apply a job generation rate for the type of use, then factors in jobs per employee and employees per household before applying a

mitigation rate. These rates tend to be more complicated but are typically based on the square footage of a use and tend to offer fee-in-lieu payments to satisfy partial unit obligations.

With respect to residential requirements, many communities exempted small residential development (2-5 units), although Eagle, Glenwood Springs, and Garfield County have a 10-, 10-, and 15-unit threshold respectively.

Recent Development Scenarios

When considering modifications to inclusionary zoning requirements its helpful to understand recently approved projects. Unfortunately, the majority of recently approved multi-family projects have been rentals, therefore the RO Units haven't been received. To illustrate the thought process, the second line of each project would be the resulting number of units if the project was for-sale units as opposed to for-rent units.

Project	Total Units	Approved		Current Regs		AMI Increase Option		RO Increase Option		Dual Increase Option	
		20% AMI	20% RO	20% AMI	20% RO	25% AMI	20% RO	20% AMI	25% RO	30% AMI	30% RO
CCP	76	15	0	15	0	19	0	15	0	23	0
				15	12	19	11	15	15	23	16
1201 Main	27	5	0	5	0	7	0	5	0	8	0
				5	4	7	4	5	6	8	6
Mainstreet Marketplace	115	23	0	23	0	29	0	23	0	35	0
				23	18	29	17	23	23	35	24
ANB Bank	16	3	0	3	0	4	0	3	0	5	0
				3	3	4	2	3	3	5	3
Thompson Park	40	8	0	8	0	10	0	8	0	12	0
				8	6	10	6	8	8	12	8
1629 Dolores	9	5	0	2	0	2	0	2	0	3	0
				2	1	2	1	2	2	3	2

Proposed Regulations

Based on the feedback provided at the March 14<sup>th</sup> meeting, Staff has prepared draft regulations (Attachment A). The draft regulations are intended to capture the direction received by the BOT and P&Z. The proposed amendments are summarized as follows:

1. UDC §5.11.2 – *Applicability*  
This section is revised to reduce the number of residential units that trigger housing mitigation from developments with 5 units or more to those with 4 units or more.
2. UDC §5.11.3 – *Exemptions*  
Staff proposes striking subsection D which exempts “four family dwelling units on a single pre-existing lot” from compliance with the regulations. This proposed amendment works in tandem with the above-mentioned amendment to require all residential developments of 4 units or greater to comply with the regulations, while only exempting projects of 3 units or less.

3. UDC §5.11.4 – *Residential Development Mitigation Requirements*

The proposed changes continue the mitigation threshold reduction from 5 to 4 units. In addition, the proposed changes increase the mitigation rate from 20% to 25% for both AMI Category units and R.O. Units. Lastly, the proposed changes also increase the minimum bedroom percentage from 15% to 20% which is commensurate with the increased mitigation rates.

The P&Z should provide analysis and recommendations on these proposed changes, including the following questions:

- a. Should the increase from 20-25% be applied to AMI units, R.O units, or both?
- b. Should the regulations create new mitigation requirements for hybrid R.O. units? If so, should that be a percentage of the R.O requirements or in addition to the R.O. requirements?
- c. Should the percentage of bedrooms remain at 15%, which would result in a greater number of small units (studio/1-bedrooms) or increase to 20% or 25%, resulting in a greater mix of unit sizes that likely would match the overall development unit mix?

4. UDC §5.11.4.D – *Developments Consisting of For-Rent Units*

This is a new section that is intended to respond to the increase in rental projects in Carbondale. The proposed language captures the Town's current approach to rental projects, which requires AMI unit mitigation, but does not require R.O. unit mitigation. Again, this is due to rental units typically housing locals instead of "second home renters". In addition, this section intends to codify that rental residential projects will need to meet certain requirements if a subdivision application is submitted to convert the rental project into an ownership project. Those requirements include:

- a. Meeting the prevailing requirements at the time of conversion.
- b. Receiving credit for the previously provided AMI units.
- c. Acknowledging that AMI mitigation sequencing begins at the previously provided units if additional AMI units are required.
- d. Replacing rental deed restrictions with ownership deed restrictions.

5. UDC §5.11.7 – *Homeowners' Association Dues and Assessments*

The UDC and each deed restriction limit the amount HOA dues and assessments can be for deed-restricted units. The rationale for this limitation is that the UDC defines affordability as inclusive of HOA dues. This section, as written, requires the HOA dues or assessments to be commensurate with the size of the restricted unit in comparison to the non-restricted units. One concern expressed over the years is HOA dues and assessments are a hindrance to affordability for units. As such, Staff is recommending that a cap for these dues be added to ensure that in no scenario the HOA dues and assessments exceed 75% of those of the free market units. The P&Z should provide a review of this to determine if it is necessary or if the maximum is acceptable.

6. UDC §8.3 – *Definitions*

The proposed regulations also update the definition of AMI. This modification intends to provide specificity to which county (Garfield) the AMI is set for and to allow the Town to modify adjustments to the Town's AMI as it relates to the County's AMI from time to time.

**RECOMMENDATION:**

Staff recommends P&Z discuss the draft regulations and provide feedback. If the P&Z is supportive of the draft UDC amendments as presented, Staff would recommend the following motion be made:

**Move to recommend to the Board of Trustees approval of Amendments to the Unified Development Code related to Community Housing Inclusionary Requirements and Sections 5.11 and 8.3 as presented in Attachment A to the May 9, 2024 P&Z memorandum and with the following findings:**

1. The proposed amendments will promote the public health, safety, and general welfare by increasing the availability and accessibility of affordable community housing within the Town of Carbondale.
2. The proposed amendments are consistent with the Comprehensive Plan, the stated purposes of the Unified Development Code, and the Town of Carbondale's Community Housing Plan by adjusting the Town's inclusionary residential requirements to respond to increased development and affordability gaps and increasing mitigation rate which will support the Town's goal of doubling the number of deed-restricted, rental capped, and town-owned units by 2032.
3. The proposed amendments are necessary and desirable because of changing conditions related to housing affordability and to mitigate the impact of market-rate housing construction on the limited supply of available land suitable for housing.

If the P&Z requires additional dialogue and further modifications to the draft regulations, Staff recommends the P&Z continue the public hearing and make the following motion:

**Move to continue the public hearing to May 23, 2024 for Amendments to the Unified Development Code related to Community Housing Inclusionary Requirements and Sections 5.11 and 8.3.**

**Prepared By:** Jared Barnes, Planning Director