

## 5.11 COMMUNITY HOUSING INCLUSIONARY REQUIREMENTS

### 5.11.1. PURPOSE

The purpose of this Section is to mitigate the impact of market-rate housing construction on the limited supply of available land suitable for housing. This mitigation will prevent the Town zoning regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within the Town. This is accomplished through the establishment of community housing requirements for such development, which requires a portion of all new residential development to be set aside for community housing purposes as a condition of approval for such development.

### 5.11.2. APPLICABILITY

Community housing shall be required as a condition of approval for all residential development, including: annexations, subdivisions, planned unit developments, subdivision exemptions, condominium subdivisions, condominium exemptions, common interest communities, planned communities, rezonings, special use permits, or site plan review applications, unless exempted by Section 5.11.3 below. In the case where no land use application is made, any building permit application with ~~five~~four or more dwelling units is also subject to these regulations.

### 5.11.3. EXEMPTIONS

The following development is exempt from the requirements of this Section:

- A. Community housing and designated employee dwelling units.
- B. Single-family and two-family dwellings on a single pre-existing lot.
- C. Three-family dwelling units on a single pre-existing lot.

~~D. Four family dwelling units on a single pre-existing lot.~~

ED. Vested land use approvals pre-dating October 9, 2001, and all future phases of River Valley Ranch if developed as set forth in the currently approved PUD plan for River Valley Ranch without change.

### 5.11.4. RESIDENTIAL DEVELOPMENT MITIGATION REQUIREMENTS

All new residential subdivisions and all new multi-family residential developments shall set aside lots or units for community housing as set forth in this Section.

#### A. Mitigation of New Development

1. Residential developments of greater than ~~four~~three units shall be required to provide ~~20~~twenty-five percent (25%) of the total units as Community Housing AMI Category units, which shall include ~~15~~twenty percent (20%) of the total bedrooms.
2. Twenty~~-five~~ percent (25%) of the remaining units shall be Resident Owner Occupied (R.O.) units.
3. Commercial development will not be required to mitigate.

#### B. Fractional Remainders

The development's mitigation responsibility will be rounded to the nearest whole number: below 0.5 round down (= 0 unit), and round up from 0.5 and higher (= 1 unit).

C. Sequencing of Mitigation Units

The sequence of required mitigation units will be as follows:

1. First mitigation unit: Category 2 (100% AMI)
2. Second mitigation unit: Category 1 (80% AMI)
3. Third mitigation unit: Category 3 (120% AMI)
4. Fourth mitigation unit: Category 4 (150% AMI)
5. Repeat the cycle for additional mitigation units.

D. Developments Consisting of For-Rent Units

Residential developments consisting of only units for-rent shall only be required to mitigate Community Housing AMI Category units as set forth in subsection 5.11.4.A.1. These developments do not contain ownership units and are not required to mitigate Resident Owner Occupied (R.O.) units as set forth in subsection 5.11.4.A.2. At such time that a land use application is made, or other form of legal action is taken, to convert a portion of or the entirety of the residential development from for-rent to for-sale, the residential development shall comply with all applicable regulations of Section 5.11, *Community Housing Inclusionary Requirements*, including, but not limited to, the following:

1. All existing deed restrictions for Community Housing AMI Category units for-rent shall be replaced with a new for-sale deed restriction.
2. The development shall receive credit for all existing Community Housing AMI Category units.
3. The development shall provide additional Community Housing AMI Category units required to comply with subsection 5.11.4.A.1. The mitigation of additional Community Housing AMI Category units shall continue the sequencing of mitigation units as outlined in subsection 5.11.4.C. based on the previously provided AMI Categories.
4. The development shall provide Resident Owner Occupied (R.O.) units required to comply with subsection 5.11.4.A.2

**5.11.5. PRIORITIZATION OF PREFERENCE FOR COMMUNITY HOUSING LOCATION**

The following is a prioritization of the preferred location of community housing:

- A. On-site housing.
- B. Off-site housing within the Town, including both "buy-downs" of existing units and/or construction of new units. Consideration shall be given to the proximity of the off-site units to schools, public transportation, and shopping.
- C. Off-site housing outside the Town limits, but within the Town's urban growth boundary.
- D. Fee in lieu of providing housing as provided for more fully in Subsection 6.3.1, Incentives for Affordable Housing Projects.

**5.11.6. MINIMUM REQUIREMENTS**

A. Deed Restrictions

Any community housing required by this Section shall be deed-restricted in accordance with a form of deed restriction enforceable in the State, as approved by

the Town Attorney, to rental or ownership and occupancy by the project developer or to persons who live or work in the Town. Deed restrictions shall be prepared in accordance with the community housing guidelines.

B. Housing Guidelines

The units shall be developed and shall comply with the size, design and occupancy standards established within the community housing guidelines.

C. Timing of Occupancy

The units shall be ready for occupancy no later than the occupancy of free market units within the project. If the free market units are to be developed in phases, then the community housing units can be developed in proportion to the phasing of the free market units.

**5.11.7. HOMEOWNERS' ASSOCIATION DUES AND ASSESSMENTS**

If any community housing unit is developed as part of a mixed free-market and community housing development project for sales purposes, then any documents creating the condominium association or homeowners' association shall state that community housing units shall be only assessed monthly dues and other shared assessments based on whichever of the following two formulas results in the lower cost for the community housing unit:

- A. The size of the employee dwelling unit in square feet as compared to the total size of the other units in the development; or
- B. The size of the lot on which the employee dwelling unit is located as compared to the total size of the other lots in the development.

C. The employee dwelling unit shall not exceed seventy-five percent (75%) of the other units in the development.

**5.11.8. HOUSING MITIGATION PLAN**

- A. Housing mitigation plan required. An applicant submitting any application that is subject to Section 5.11.2 shall submit a housing mitigation plan with the applicant's development plan to the Planning Department.
- B. All requests for variances shall be submitted with the housing mitigation plan as required in Section 5.11.9 below.

**5.11.9. VARIANCES**

- A. The Board of Trustees shall have the authority to grant variances from this Section when it is deemed to be in the best interest of the community and when it furthers the overall goal of promoting affordable housing to the citizens of the Town. Variances may be granted, but are not limited to the following instances:
  - 1. Where a developer provides incentives which further the purposes of this Article.
  - 2. Where a developer proposes voluntary restrictions on housing units being constructed which further the purposes of this Article.
- B. The Board of Trustees shall have the sole authority to grant variances to this Article. In doing so, the Board of Trustees shall approve variances only in these instances where, in the Board of Trustees' opinion, the overall outcome will advance the goal of obtaining affordable housing in a manner which meets or exceeds the requirements herein.

- C. All requests for variances shall be submitted with the housing mitigation plan as required in Section 5.11.8 above.

**5.11.10. GUIDELINES FOR IMPLEMENTATION**

- A. This Section has been implemented in accordance with guidelines adopted by the Board of Trustees, which guidelines shall be titled "Town of Carbondale Community Housing Guidelines." The guidelines may be amended from time to time and shall include the following components:
  - 1. Guidelines for the type, size and price for community housing units;
  - 2. Guidelines for qualifications to purchase and occupy community housing units; and
  - 3. Guidelines for the purchase or sale of community housing units.
- B. The guidelines will provide all general information necessary for the implementation and administration of this Section.

**5.11.11. ADMINISTRATION**

- A. The Planning Director shall be responsible for the administration of these regulations, and he or she shall have the authority and duty to:
  - 1. Exercise administration of this Section or any guidelines thereof pertaining to all building and developments where applicable.
  - 2. Enforce all terms of this Section or any guidelines thereof.
  - 3. Review and recommend approval or denial of all housing mitigation plans submitted in accordance with this Section or any guidelines thereof.
  - 4. Review and recommend approval or denial of all variance requests submitted pursuant to the provisions of this Section or any guidelines thereof, subject to the approval of the Board of Trustees.
- B. The Planning Director may also enter into contracts with other agencies, including regional housing authorities, to administer this Section or any guidelines thereof, subject to approval of the Board of Trustees.

**5.11.12. APPLICABILITY OF OTHER PROVISIONS OF CODE**

The provisions of this Section are in addition to all other provisions and requirements of this Code pertaining to development of real property, including those contained in other sections of this chapter, the subdivision regulations, and the zoning regulations.

## **Chapter 17.08: Definitions**

### **8.3 OTHER TERMS DEFINED**

For the purposes of this Code, the following words and terms are defined as indicated in this chapter.

**Affordable**

For purposes of the Community Housing Inclusionary Requirements: a housing price that will be calculated based upon principal, interest rate, taxes, insurance, homeowners'

dues and private mortgage insurance, not to exceed 30 percent of gross household income, assuming a 95 percent loan-to-value ratio and 30-year mortgage.

**AMI**

For purposes of the Community Housing Inclusionary Requirements: the Area Median Income as determined by the U.S. Department of Housing and Urban Development (HUD) and published annually for ~~the~~ Garfield County and adjusted for the Town of Carbondale as set forth in the Town of Carbondale Community Housing Guidelines.

**Community Housing**

For purposes of the Community Housing Inclusionary Requirements: a residential dwelling unit that is deed-restricted for resale price and/or occupancy in accordance with a form of deed restriction approved by the Board of Trustees.

**Employee Dwelling Unit**

For purposes of the Community Housing Inclusionary Requirements: a separate community housing unit that meets the following criteria:

- (1) Located within or attached to a nonresidential development, but with a separate entrance from the nonresidential portion of the development;
- (2) Not accessed from another residential dwelling;
- (3) Detached from the nonresidential development but located on the same lot, parcel or subdivision; and
- (4) Located at an approved site location different than the site of the employment generation.

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