

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, APPROVING AMENDMENTS TO PORTIONS OF CHAPTER 16,
ZONING, OF THE MUNICIPAL CODE OF THE TOWN OF BASALT,
COLORADO, CONCERNING COMMUNITY HOUSING (PREVIOUSLY
REFERRED TO AS AFFORDABLE HOUSING) REQUIREMENTS**

**Ordinance No. 05
Series of 2009**

RECITALS

1. The Town of Basalt ("Town") acting by and through its Town Council has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to state statutes, Section 1.3, Home Rule Charter, and Section 1-58, Town Code, and all such amendments shall become a part of the Town Code.

2. The Town Council held a series of work sessions to consider recommendations from the Town's housing consultants and the community housing task force, and to formulate the proposed community housing policies. These work sessions were held on August 14, 2008, October 7, 2008, January 27, 2009, February 18, 2009, February 24, 2009, and March 10, 2009.

3. At a public hearing held on March 24, 2009, the Planning and Zoning Commission considered the proposed code amendments and public comments thereon. At the public meeting on March 24, 2009, the Planning and Zoning Commission heard evidence and testimony from the Town Staff, Town Council, and members of the public. The Planning and Zoning Commission recommended approval of the proposed code amendments.

4. At a public hearing on March 24, 2009, the Town Council approved this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for April 14, 2009, at a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

5. At a public hearing and second reading on April 14, 2009, the Town Council heard evidence and testimony from the Town Staff and members of the public.

6. The Town Council finds and determines it is in the best interests of the Town to amend the Town Code as provided herein.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Basalt, Colorado, as follows:

A. Findings. The Town hereby finds and concludes as follows:

1. Basalt is centrally located in the Roaring Fork Valley between Aspen and Glenwood Springs, Colorado. The Roaring Fork Valley is a long and narrow valley generally characterized by private lands in the valley floor and public lands owned by federal and state entities surrounding the private lands. Most of the land in the area is public land which results in a limited supply of private land for the provision of housing. Because of the very desirable character of the area and the tourist-oriented nature of the area, there is a high demand for housing, including second homes. As a result of the high demand for housing, there has been a significant increase in the cost of housing in Basalt in recent years.

2. As described in the 2007 Basalt Master Plan, the average sales price of a home in Basalt was \$556,557 in 1999. The average sales price in 2004 was \$679,703. This represents a 22% increase since 1999. The average sales price dropped for two years after the September 11th disaster but has been rising since 2002. The average sales price has continued to increase to \$779,907 for the months of January to August of 2008.

3. Section 4.5 of Section 4 of the 2007 Basalt Master Plan contains the following community housing goal:

Promote the development of a diversity of housing close to existing and planned commercial and transit centers, thus providing for residents with different economic and housing needs and giving mid-valley employees the opportunity to live affordably and close to where they work.

4. Objective 4.5.2 in Section 4 of the 2007 Basalt Master Plan contains the following community housing objective:

Prepare community-wide Housing Needs Assessment to evaluate the current housing stock as compared to the housing demand and identify priorities for future housing development. This report should be updated annually.

5. Objective 4.5.3 in Section 4 of the 2007 Basalt Master Plan contains the following community housing objective:

Explore a wide range of affordable housing strategies to produce housing for local residents in an amount consistent with findings and recommendations of the Housing Needs Assessment. These strategies shall, at a minimum,

significantly increase the percentage of the housing stock that is affordable. Solutions should include the appropriate balance of rental and ownership housing.

6. In an effort to act on the housing goals and objectives established in the 2007 Basalt Master Plan, the Town contracted with Rees Consulting Inc, the Elk Mountains Planning Group Inc, and RRC Associates, Inc. to complete a study of housing needs in 2008 entitled the *Town of Basalt Housing Needs Assessment*, which makes the following findings:

- (a) Incomes in excess of 150% of the Area Median Income are now required to buy a home, even a small condominium, and that rents have escalated above the level that is affordable for low- and moderate-income renters.
- (b) Approximately 34% of households live in homes that are more expensive than they can afford given their incomes, making it difficult for those households to pay for other necessities, like food, utilities, transportation, and health care.
- (c) Nearly 40% of households with at least one essential employee spend more than 30% of their income on housing.
- (d) Nearly 70% of employers surveyed consider the availability of affordable workforce housing in Basalt to be the most critical, or one of the more serious, problems in the community.
- (e) 683 additional housing units will be needed to keep up with the demand for workforce housing by the year 2012.
- (f) Due to the difficulty of finding affordable housing for employees, jobs are difficult to fill, including positions that are essential to the welfare and safety of residents such as fire fighters, police officers, teachers, and medical practitioners. Employees are often forced to commute long distances in sometimes dangerous conditions to find homes in less expensive communities.
- (g) Approximately 25% of the employees who work in Basalt also live in town. It is important to understand that, if new housing development is required to provide housing for 25% of the demand generated, the actual number of employees will increase as jobs are created. A rate higher than 25% would be needed to curtail the increase in the number of

employees and cars on the road.

7. The Town also contracted with Rees Consulting Inc, the Elk Mountains Planning Group Inc, and RRC Associates, Inc. to develop a housing support study in 2009 titled *Town of Basalt Community Housing- Strategy Support Study*, to help provide the basis and rational nexus for the community housing program established by the language provided in Exhibit "A"

8. All of the neighboring jurisdictions impose affordable housing requirements on new development including, the City of Aspen, Town of Carbondale, City of Glenwood Springs, Pitkin County, Eagle County, and Garfield County. Additionally, the Town of Basalt currently has an affordable housing program with inclusionary housing and commercial mitigation requirements.

9. Basalt is part of a larger community, for example, the Roaring Fork Valley. The Roaring Fork Valley encompasses parts of Pitkin, Eagle and Garfield Counties, the cities of Aspen and Glenwood Springs, and the towns of Snowmass Village, Basalt and Carbondale. In preparing this Ordinance, Town Staff and the Town Council have considered studies, reports and information concerning affordable housing from these governmental entities and also from the Aspen/Pitkin County Housing Authority ("APCHA").

10. New development creates a need to provide for and assure the availability of affordable housing in Basalt.

11. It is the desire of the Town Council that the community retain its current character, including the provision of housing for persons with a broad range of incomes. The Town of Basalt has a legitimate public interest in preserving the character and quality of the neighborhoods within the Town, which includes assuring the provision of and availability of affordable housing for moderate and lower income persons in the Basalt area.

12. The Town Council finds that the development of new residential dwelling units generates demand for housing as a result of the need for operation and maintenance. Activities including exterior and interior maintenance and upkeep, house cleaning, meal preparation, childcare, personal services, and home office support generate jobs, many of which are relatively low paying. Additionally, the Town Council finds that new commercial development fuels demand for housing as a result of the new on-site jobs that are created. Municipalities and counties throughout the United States, and particularly in Colorado, California and Florida, have created requirements to address the shortcomings of the free market in providing housing that is affordably priced for local wage earners. These requirements were enacted to provide an adequate labor force for a sustainable economy and community, and

to preserve the fabric and character of the communities as they grow with a diversity of housing opportunities and balanced residential development.

13. The Town Council finds and concludes there is a substantial and rational connection between the need for affordable housing generated by new development and the requirements for the provision of affordable housing set forth herein. Additionally, the Town Council finds that requiring housing priced for the current mix of low-, moderate-, middle- and upper-income households will provide opportunities for workforce housing and essential worker housing, maintain the community's demographic character and diversity, and minimize regional impacts by limiting commuting. Finally, the Council further finds and concludes that, in order to recognize the rights and interests of property owners so as to ensure the reasonableness of these requirements, the Town is adopting regulations which reflect a conservative estimate of the impact of new development on the need for affordable housing.

B. Article XIX, Section 16, of the Town Code titled *Housing Mitigation*, is hereby amended as shown in Exhibit "A".

C. Article XVIII, Section 16-394(e) of the Town Code titled *Historic Preservation Incentives: affordable housing*, is hereby amended as shown in Exhibit "B".

D. Applicability of These Regulations. Developments with vested rights or a completed site-specific development plan application as defined in Chapter 17 of the Town Code shall be exempt from the regulations established by this Ordinance. Certain other developments were already in the land use pipeline and under review by the Planning and Zoning Commission or the Town Council at the time of approval of this Ordinance by the Council. These developments are listed in **Exhibit "C"** and are on file at the Town of Basalt.

The Council has determined that because the developments listed in **Exhibit "C"** are already under review by either the Planning and Zoning Commission or the Town Council, it would not be reasonable to apply the regulations established by this Ordinance to the applications listed in **Exhibit "C"**. Therefore, the Applications listed in **Exhibit "C"** shall not be subject to the new community housing regulations established by this Ordinance.

The ability of applicants to make changes to the applications listed in **Exhibit "C"** without being subject to the new community housing regulations shall be limited solely by those provisions of the Code that were in effect prior to the effective date of this Ordinance that address amendments to applications that are in process.

If any of the applications in **Exhibit "C"** are withdrawn or denied, then any new application for those properties would be subject to the new community housing

regulations established by this Ordinance. If the application fails to comply with any subsequent submittal deadlines, the Town Council may require the application to be subject to the new community housing regulations.

E. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

F. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.


READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON April 14, 2009 by a vote of 7 to 0 on March 24, 2009.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 0 on April 14, 2009.



TOWN OF BASALT, COLORADO

By:


Leroy Duroux, Mayor

ATTEST:


Pamela K. Schilling, Town Clerk

Ord05-HousingCode Amendments
Bill to: 10-45-540

First Publication: Thursday, April 2, 2009
Final Publication: Thursday, April 23, 2009
Effective Date: Thursday, May 7, 2009

Exhibit "A"

ARTICLE XIX

Housing Mitigation

Sec. 16-411. Purpose.

(a) Basalt is located in a unique and highly desirable valley. The Town recognizes that having a supply of community affordable housing attainable by households earning lower and median incomes in the Town is critical to retaining a diversified and sustainable Town having the character and sense of community of a Town where people can live and work in the same area. The citizens of the Town do not want Basalt to become an exclusive community. Historically, persons earning lower and median incomes have been able to attain housing in the Basalt area, and the Town currently reflects a mix of socioeconomic backgrounds. The Town further recognizes that there is a growing gap between housing costs and wages in Basalt. Therefore, the Town Council has determined that it needs to develop and maintain a community housing program.

(b) The intent of this community affordable housing program is to require new development to mitigate for a portion of the employees generated by such development and to reflect and maintain the Town's small town character and enhance the livability of the Town. The goal of these regulations is to require new development to provide community affordable housing attainable by persons having lower and median incomes paying not more than approximately thirty percent (30%) ~~twenty eight percent (28%) to thirty six percent (36%)~~ of their household income for total housing expense.

(1) ~~The Town should not lose ground on the existing level of affordable housing available in and around Basalt. This means~~ All new residential developments will integrate community affordable housing into the development or, if integration is impractical or not desired given the specific circumstance as determined at the sole discretion of the Town of Basalt, provide meaningful community affordable housing in or near Basalt; methods will be developed to maintain the affordability of existing housing in Basalt; nonresidential projects will mitigate for impacts they create by providing for community affordable housing; and existing community affordable housing will not be lost through displacement or demolition.

(2) Community affordable housing should be dispersed throughout the community and, where possible, integrated into the existing community fabric.

(3) The Town encourages community participation in solving and benefitting from solutions to the community affordable housing concerns. The Town intends to supplement the provisions of this Article by developing a program that looks at the total benefits to a neighborhood and to the community while relying less on numerical standards and limitations.

(4) The Town will emphasize programs that will result in the creation of community affordable housing units -- by units being constructed or by existing units being permanently restricted for community affordable housing, either through deed restrictions or other

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methods. As an example, the Town has identified as a priority an Accessory Dwelling/Employee Dwelling Unit Program. This will include an educational program on the benefits and workings of the Accessory Dwelling/Employee Dwelling Unit Program.

(5) Community affordable housing will be transit friendly, integrate with intermodal transportation connections and perpetuate the Town's history of pedestrian walkability and ease of mass transit use.

(6) The Town will look at the total costs for all housing, including life cycle costs such as painting, building materials and energy costs. The Town will work toward a zero energy footprint for all housing.

(7) The Town's housing program should acknowledge regional issues and encourage coordination among jurisdictions including community ~~affordable~~ housing standards and requirements. The Town will seek out partnerships with other entities supporting community ~~affordable~~ housing and develop reciprocal agreements. The Town will discourage jurisdiction shopping for development proposals.

(8) The Town will support creative housing solutions, including projects that include sweat equity by those benefiting from the housing subsidy. (Ord. 6 §C, 1999; Ord. 26 §2, 2001; Ord. 33 §B1, 2003)

Sec. 16-412. Definitions.

The following definitions shall apply to the following terms and phrases:

Accessory dwelling unit or ADU shall mean a deed restricted community affordable housing unit typically required to be developed to mitigate for single-family residential development which is a separate dwelling unit that contains not less than ~~four hundred~~ four hundred and fifteen (415) square feet and not more than one thousand ~~two hundred~~ (1,000) total square feet and comprises not more than thirty-three percent (33%) of the total floor area on the lot and (a) is located within or attached to a principal dwelling unit, but has a separate entrance from such principal dwelling unit, or (b) is detached from the principal dwelling unit but located on the same lot. ADUs shall be subject to a deed restriction requiring occupancy in accordance with the Community ~~affordable~~ Housing Guidelines then in effect.

Affordable Community housing shall mean dwelling units deed restricted with initial sales price and appreciation caps corresponding to the housing sizes and types set forth in the Community Housing Guidelines. Community housing units shall be (1) owned or rented and (2) occupied by individuals and households meeting income, employment and occupancy requirements set forth in the Town's Community Housing Guidelines. a dwelling unit which is deed restricted in accordance with a deed restriction approved by the Town Attorney so as to be generally attainable.

Affordable Community Housing Guidelines shall mean guidelines adopted by resolution of the Town Council which may include, but shall not be limited to, standards concerning the procedure for qualifying to obtain affordable community housing; the limitations (e.g., income and asset) and requirements (e.g., residency) for qualifying to obtain affordable community housing; forms of approved deed restrictions; limitations on appreciation of sale prices of

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affordable community housing; procedures for sale and rental of affordable community housing; priorities for persons bidding to purchase affordable community housing; occupancy requirements; size, and price limitations; maximum price increases; employee generation standards for commercial land uses; standards for numbers of residents per dwelling unit; land dedication standards; quality of construction requirements for new affordable community housing; and formula for calculating any payment of a fee-in-lieu of provision of affordable community housing. The affordable Community Housing Guidelines and any subsequent amendments thereto shall be adopted only after a duly noticed public hearing at which such guidelines are considered. Other terms used in this section but not defined in the Town Code are defined in the Community Housing Guidelines.

Employee dwelling unit or EDU shall mean a deed restricted community housing unit typically required to mitigate for multi-family, mixed-use, and commercial development, which separate dwelling unit contains not less than four hundred and fifteen (415) square feet and not more than one thousand two hundred fifty hundred eighty-five (1,585) (1,200) total square feet square feet of floor area and (a) is located within or attached to a commercial development, but has a separate entrance from such commercial development, or (b) is detached from the commercial development but located on the same lot. EDUs shall be subject to a deed restriction requiring occupancy in accordance with the affordable Community Housing Guidelines then in effect.

Net Commercial Square Footage shall mean those areas within a commercial, industrial, or office building, which are or which are designed to be operated by the owner or leased to a tenant and occupied for commercial, industrial, or office purposes. Net Commercial Square Footage shall not include of areas dedicated to bathrooms, stairways, circulation corridors, mechanical areas and storage areas so long as these areas are used solely by the commercial owner or tenants on the site.

Net Square Footage (Feet) shall mean a calculation based on interior area that is measured from the interior walls, including all interior partitions, habitable basements (including unfinished basements that have the potential to meet habitability standards once finished), interior storage areas, and closets and laundry area. Such calculations shall not include mechanical areas, exterior storage, stairwells, garages (either attached or detached), patios, decks, and porches. Exterior storage exclusions may not exceed 10 percent (20 percent of the Net Square Footage) of the total Net Square Footage of the Community Housing or Resident-Occupied Housing.

New residential development or new commercial development shall mean any development for which a building permit has not been issued prior to the effective date of this ordinance, except the following:

(a) development which has a vested property right pursuant to Section 17-125 of this Code; or,

(b) Application for site specific development plan approval which have been determined by the Town prior to the effective date of this ordinance to be complete; and,

(c) The following applications (which were exempt from the development moratorium preceding adoption of this regulation). If any of these applications are withdrawn or denied, then any new application is subject to these regulations. If the application fails to

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comply with any subsequent submittal deadline, the Town Council may require the application to be subject to the new community housing regulations:

1. Stott's Mill
2. Basalt Design District
3. Jadwin
4. Pokorny/Flying Fish
5. St. Vincent
6. Basalt Bluffs
7. Arbaney/Kittle
8. 261 Sopris
9. Wolfgang
10. 237 Park Avenue

New commercial development shall include the development of new public and non-profit facilities that include the uses listed in Section 16-28(3) of this Chapter. Upon a recommendation from the Town Planner, the Town Council may assess, waive or partially waive community housing mitigation requirements on new public facilities by governmental and quasi-governmental agencies as is deemed appropriate and warranted for the purpose of promoting civic uses and in consideration of broader community goals. The employee generation rates may be used as a guideline, but each operation shall be analyzed for its unique employee needs.

~~New residential or new commercial development shall mean any such development for which a building permit is not issued prior to the effective date of the ordinance codified herein except development which is exempt by virtue of a vested property right pursuant to a site specific development plan as defined and established by and pursuant to Section 24-68-103, C.R.S., and Section 17-125 of this Code, or which is otherwise specifically exempt pursuant to an ordinance of the Town Council. (Ord. 6 §C, 1999; Ord. 26 §3, 2001; Ord. 33 §B1, 2003)~~

Sec. 16-413. Employee Impact and Housing Mitigation Report.

Unless waived in part or whole by the Town Planner; in order for the Town to be able to assess the need for housing mitigation generated by new nonresidential development, any application for site plan review (Sections 16-111 through 16-113), planned unit development (Section 16-65), subdivision (Sections 17-83 and 17-84), rezoning (Section 16-267), Community Priorities Scoring System (Section 16-471) or special review (Section 16-43) containing nonresidential development shall include an Employee Impact and Housing Mitigation Report prepared by a professional qualified to prepare such report and approved by the Town using recognized standards which provide, at a minimum, the following items:

- (1) An analysis of the number of full-time equivalent employees which will be added to the Town as a result of the applicant's proposed nonresidential development, including employees during and necessary for construction of the project as well as employees necessary after complete build out of the project;

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(2) An analysis of the number, size, type and configuration of all housing on the property as of January 1, 1999, which was generally attainable by households having low and median incomes (household income less than fifty thousand dollars [\$50,000.00] in 1999) paying not more than twenty-eight percent (28%) to thirty-six percent (36%) of their household income for total housing expense, including debt service or rental payments, homeowner's or renter's insurance, real estate taxes and utilities;

(3) A description of the manner in which the applicant proposes that employees will be housed, including any on-site or off-site housing the applicant will provide;

(4) A description of the methodology by which the applicant will ensure that the housing to be provided by the applicant will be maintained as housing available for employees of the Town; and

(5) A written statement verifying that the proposed development is in compliance with the then-existing Master Plan. (Ord. 27 §1, 1998; Ord. 6 §C, 1999; Ord. 26 §4, 2001)

(6) A written statement describing how the proposed development is consistent with the adopted Community Housing Guidelines and Community Housing requirements established in this Article.

Sec. 16-414. Waiver or additional information.

The Town Planner may waive the requirement of preparing and submitting ~~filing~~—the Employee Impact and Housing Mitigation Report in instances when the Town Planner finds that the preparation and filing of the report for a particular application is unduly burdensome, duplicative or unnecessary because the applicant conclusively demonstrates there will be no impacts on the employees of the community or the availability of housing in the Town generated by the proposed development; or the Town Planner conclusively finds that the applicant has proposed a plan for affordable community housing that satisfies all of the requirements of Sections 16-416, 16-417 and 16-418 below. The Technical Review Committee, Planning and Zoning Commission and Town Council may require ~~shall have the right to ask the applicant to provide for any~~ additional or supplemental information not provided in such report prior to granting any approval, denial or approval with conditions for the application. (Ord. 27 §1, 1998; Ord. 6 §C, 1999; Ord. 26 §5, 2001; Ord. 33 §B1, 2003)

Sec. 16-415. Mitigation methods.

Except as otherwise provided in this Article, a requirement to provide community affordable housing shall require construction of newly deed-restricted community affordable ~~housing~~ or recording a deed restriction against title to existing housing not previously deed restricted. The applicant shall in its development application propose the location and the mixture of type, size and configuration of the community affordable ~~housing~~ which shall be subject to the review and approval, approval with conditions or denial by in the sole discretion of the Town Council in accordance with this article. The Town Council, with information provided by the Town staff and the applicant, shall require community affordable ~~housing~~ in a location and a mixture of unit types, sizes and configurations which based on the location and nature of the development is most likely to offset the impacts of the specific development on a case-by-case basis. The proposed community housing shall meet the minimum average size, sale/rent price, and tenant/owner qualification requirements established in the Community Housing Guidelines and

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the average pricing requirements set forth in this Article and the Community Housing Guidelines.

Additionally, in determining the location and mix of unit types, sizes and configurations, the Town Council shall consider the then-perceived needs of the community for housing. Applicants are encouraged to be creative with ~~community affordable~~-housing proposals. The requirement to provide ~~community affordable~~-housing pursuant to the following residential, commercial and replacement housing sections may be satisfied in full or in part through the creation of ADUs or EDUs. This may include the construction of new ADUs or EDUs at off-site properties (i.e., properties other than the property which is the subject of the new development), the construction of new ADUs or EDUs on-site, the recording of new deed restrictions on existing accessory units, or other mechanisms subject to approval of the Town Council that will create dwelling units that are assured to meet the Town's affordability criteria on a permanent basis.

In the sole and absolute discretion of the Town Council, a requirement to provide ~~community affordable~~-housing may be satisfied in whole or in part by the dedication of land to the Town or an entity designated by the Town for ~~community affordable~~-housing. Developers may dedicate land to the Town in-lieu of providing community housing at the Town Council's sole discretion, as long as the land to be dedicated meets the following criteria:

- 1) Located within the Town's Urban Growth Boundary as defined in the Town of Basalt's Master Plan; and,
- 2) Located in an area determined to be more appropriate for community housing than the property proposed for development that generates the need for community housing mitigation; and,
- 3) The land to be dedicated in-lieu of providing community housing units shall be equal to or more than the value of the Community Housing Units required for mitigation, including total development costs such as the land, structures, and utilities. The development costs of the community housing units that the land is being dedicated in-lieu of and the value of the land being dedicated shall be determined by an appraisal from a real estate appraiser licensed in the State of Colorado. An Applicant proposing to dedicate land shall pay the cost of the appraisal.

~~Or the payment of fees in-lieu of affordable housing in accordance with the Affordable Housing Guidelines~~—In the case of a development that is required to provide 500 net square feet or less of community housing, an applicant may satisfy the requirement by payment of fees-in-lieu of ~~community affordable~~-housing in accordance with the ~~Community Affordable Housing Guidelines~~ upon approval by the Special Housing Evaluation Committee as defined in the Community Housing Guidelines. In addition, a development proposing a combination of community housing units and fees in-lieu for a fraction of unit (less than 950 net square feet) may pay fees-in-lieu for the fraction of unit at the discretion of the Special Housing Evaluation Committee. All ~~community affordable~~-housing required for a particular development approval shall be available for occupancy prior to or simultaneous with issuance of a certificate of occupancy for any of the non-~~community affordable~~-housing components of the development, except upon approval of the Town Council of a specific phasing schedule for the development. All ~~community affordable~~-housing shall be located within the urban growth boundaries as

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defined in the then-current Master Plan, and shall otherwise be consistent with the goals and objectives of the then-current Master Plan. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Sec. 16-416. Residential Inclusionary Development Mitigation Requirements.

(a) All new residential development comprised of two or more units or lots unless exempted by the provisions below, including the residential component of a mixed use development shall satisfy residential inclusionary requirements by providing deed-restricted, category-level housing in the form and amount described in one of the following options: At least twenty percent (20%) of the dwelling units and fifteen (15%) of the bedrooms of all new residential development comprised of five (5) or more units or lots, including the residential component of a mixed use development shall be affordable housing.

- (1) Community Housing equal to at least 35 percent of total Net Square Footage of the Residential Development; or,
- (2) Community Housing equal to at least 30 percent of total Net Square Footage of the Residential Development and Resident-Occupied Housing equal to at least 10 percent of total Net Square Footage of the Residential Development; or,
- (3) Community Housing equal to at least 30 percent of total Net Square Footage of the Residential Development and voluntary adoption of a 1.5 percent transfer assessment placed on the second and all subsequent sales of all market-rate units (excluding units resold to Eligible Households). The assessment shall remain in place in perpetuity. The proceeds from the assessment shall be paid to a non-profit entity specified by the Town Council for the purpose of creating Community Housing within the Town's UGB; or,
- (4) Community Housing equal to at least 25 percent of total Net Square Footage of the Residential Development and voluntary adoption of a 1.5 percent transfer assessment placed on the second and all subsequent sales of all market-rate units (excluding units resold to Eligible Households) and Resident-Occupied Housing equal to at least 10 percent of total Net Square Footage of the Residential Development.

Residential or mixed use developments creating three (3) or fewer new residential units are exempt from the residential inclusionary housing requirements set forth above if they consist of detached residential dwelling units not exceeding 3,000 total square feet each or attached residential dwelling units not exceeding 1,400 total square feet each.

(b) Category-level Community Housing Units constructed within a development to satisfy inclusionary zoning requirements shall have an average initial sales price not to exceed a sales price that is affordable to those individuals or households making one hundred fifteen percent (115%) of Basalt's Area Median Income (AMI) as is updated periodically pursuant to the method established in the Community Housing Guidelines. By way of example, if there are three (3) community housing units constructed in a development to satisfy inclusionary zoning requirements, one community housing unit could be priced to be affordable to those individuals or households making 100% of AMI, the second community housing unit could be priced to be affordable to those individuals or households making 130% of AMI, and the third community housing unit could be priced to be affordable to those individuals or households making 115%

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of AMI so that they do not average an initial sales price greater than would be affordable for those individuals or households making 115% of AMI. The bedroom mix of units used to meet the inclusionary zoning requirements shall be at the discretion of the Town Council as is set forth in Section 16-415, *Mitigation Methods*.

(c) When an applicant seeks to create only residential lots, the Inclusionary Housing requirement shall be based on the applicant's estimate at the time of the land use application of the Net Square Footage of residential development that will be constructed on such lots. The Inclusionary Housing requirement from lot creation shall generally be imposed at the time of subdivision, except upon showing of good cause to the Town Council. If additional Net Square Footage is later requested and approved, an additional housing or in-lieu payment shall be required at that time. If purchasers build smaller units than the estimate, they may sell their unused housing allocation as Community Housing Credits.

Sec. 16-417. Commercial linkage development mitigation requirements.

~~(a) All new commercial development shall pay to the Town an affordable housing mitigation fee equal to fifty cents (\$.50) per square foot of the maximum allowable square footage of a development at the time of recording in the county records of a final development approval.~~

~~(b) Additionally, all new commercial development, except for additions to or remodeling of existing structures which results in no more than one thousand (1,000) square feet of additional countable floor area, shall provide affordable housing for a maximum of twenty percent (20%) of the full-time equivalent employees generated by such development. The percentage of mitigation required shall be a number ("mitigation factor") determined by dividing the number of full-time equivalent employees generated by a development by one hundred (100). The mitigation factor shall then be multiplied by the number of full-time equivalent employees generated by the development to determine the number of full-time equivalent employees for which affordable housing shall be provided. The number of full-time equivalent employees generated by a development shall be the greater of the number of such employees as determined by the Employee Impact and Housing Mitigation Report, if any, required by Section 16-413 or the ITE Trip Generation Tables. The number of employees housed by a particular number of bedrooms per affordable housing dwelling unit shall be as determined by Table 16-417 A, as such table may be amended from time to time by the Affordable Housing Guidelines. At the time of review and approval of a development review containing new commercial development, the Town and developer shall use their best efforts to estimate the likely number of square feet of each type of use allowed in the development for purposes of this calculation.~~

TABLE 16-417 A

Type of Dwelling Unit Employees Housed Per Unit

Studio/dormitory 1.25

One-bedroom 1.75

Two-bedroom 2.25

Three-bedroom 3.00

Four or more bedrooms 3.00 plus .5 for each bedroom in excess of three bedrooms

(a) Except as provided elsewhere in this chapter, all new commercial development, except for remodeling of existing structures which results in no more additional countable floor area,

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shall satisfy commercial mitigation requirements by providing deed-restricted, category-level housing for twenty-five (25%) percent of the new employees generated. If a development in the C-2 Zone District provides one-hundred (100%) percent of its Net Commercial Square Footage as being deed restricted such that it is to be sold in commercial units of 1,000 square feet or less that cannot be combined, then the mitigation rate will be reduced by half to twelve and a half (12.5%) percent.

If a development in the C-2 Zone District provides one-hundred (100%) percent of its Net Commercial Square Footage as being deed restricted such that it is to be sold in commercial units of 1,000 square feet or less that cannot be combined, and restricts the occupancy to uses identified as retail uses in the C-2 Zone District, then the mitigation rate will be reduced to zero.

(b) For mixed-use projects, only the higher of the (1) Inclusionary Housing Requirement established in Town Code Section 16-416(a), *Residential Inclusionary Requirements*, or (2) the Commercial Linkage requirements established in Town Code Section 16-417(a), *Commercial Linkage* shall apply at the lowest applicable AMI-affordability levels. By way of example, if a mixed-use project of 100,000 Net Square Feet of total Residential Development and 50,000 Net Square Feet of Commercial Development were proposed, the community housing obligation would be 35,000 square feet at an average price point affordable to a household earning 100% AMI. This represents the higher Net Square Footage requirement of Inclusionary Housing (35,000) or Commercial Mitigation (8,033), at the 100% AMI level required by Commercial Mitigation.

(c) Community Housing Units within a development constructed to satisfy commercial linkage requirements shall have an average initial sales price not to exceed a sales price that is affordable to individuals or households making one hundred percent (100%) of Basalt's AMI as is updated periodically pursuant to the method established in the Community Housing Guidelines. By way of example, if there are three (3) community housing units constructed in a development to satisfy commercial linkage requirements, one community housing unit could be priced to be affordable to individuals or households making 80% of AMI, the second community housing unit could be priced to be affordable to individuals or households making 120% of AMI, and the third community housing unit could be priced to be affordable for those individuals or households making 100% of AMI so that they do not average an initial sales price greater than would be affordable to those individuals or households making 100% of AMI. The bedroom mix of units used to meet the commercial linkage requirements shall be at the discretion of the Town Council as is set forth in Section 16-415, *Mitigation Methods*.

(d) The Community Housing demand generated by a Commercial Development shall be determined by utilizing an average job generation rate of 4 employees per 1,000 net square feet of commercial space with adjustments for multiple job holding and multiple employees per Household. Job generation rates and mitigation rates are based on the 2009 Town of Basalt Housing Support Study. The mitigation requirements shall be discounted by taking into account multiple job holdings of 1.25 jobs per employee and multiple employees per household of 1.73 employees per household as is demonstrated in the example below.

By way of example, below is the housing demand requirement for a new 3,000 net square foot of commercial space:

3,000 of net leasable square feet divided by 1,000; multiplied by a job generation rate of 4 full-time employees per 1,000 net square feet of commercial space; divided by 1.25 Jobs per

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Employees, divided by 1.73 Employees per Household; multiplied by .25 (25% of employees generated) mitigation requirement equals 1.38 community housing units required, multiplied by 950 net square feet per community housing unit equals 1,317 net square feet of community housing required.

(e) If the applicant can document, to the TRC's reasonable satisfaction, that the proposed commercial development will generate fewer jobs per 1,000 net square feet than the rate of jobs identified above for the life of the project, then the Town may allow the Applicant to use the anticipated lower job-generation rate in calculating Commercial Mitigation obligations. The TRC may require a request to use a lower job generation rate to be reviewed by the Town Council or an Applicant may appeal the TRC's determination to the Town Council. The bedroom mix of units used to meet the commercial linkage requirements shall be at the discretion of the Town Council as set forth in Section 16.415, *Mitigation Methods*.

Sec. 16-418. Replacement housing requirements.

Redevelopment of any property in the Town or newly annexed to the Town which, as of January 1, 1999, had four (4) or more residential housing units generally attainable by persons with a household income of fifty thousand dollars (\$50,000.00) on January 1, 1999, shall replace one hundred percent (100%) of such housing with community affordable housing. Any such replacement community affordable housing may be located on the property being redeveloped or on any other property within the urban growth boundaries as identified in the then-current Master Plan. The unit type and configuration of any such replacement housing shall be as similar in nature and number of bedrooms as reasonably possible and shall be subject to approval by the Town Council. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Sec. 16-419. Fee exemptions.

Community affordable housing, including deed-restricted ADUs and EDUs, may be exempted by the Town Council from the payment of certain fees required by this Code, such as fees or land dedications required for park land dedication, school land dedication, special improvement fees and water tap fees in special circumstances. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Secs. 16-420—16-430. Reserved.

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Exhibit "B"

Section 16-394 (e)

Historic Preservation Incentives

(e) Affordable Community Housing.

(1) Affordable Community housing for commercial development. The remodel of a landmark with new commercial square footage which results in no more than three thousand (3,000) square feet of additional countable floor area subsequent to August 14, 2001, shall be exempt from the ~~affordable housing commercial housing~~ mitigation requirements including the ~~affordable housing mitigation fee of fifty cents (\$.50) per square foot and the requirement to provide mitigation for a maximum of at least twenty percent (20%)~~ twenty-five percent (25%) of the full-time equivalent employees generated by such development. The portion of new commercial countable floor area in excess of three thousand (3,000) square feet shall be subject to the affordable community housing mitigation requirements ~~but shall be permitted to take advantage of the sliding scale as the employees attributable to the first three thousand square feet will not count in calculating the mitigation factor.~~

(2) Affordable Community housing for residential development inclusionary zoning. If all residential units on a landmark parcel satisfy the ~~category 1 or Category 2 size restrictions included in the Town of Basalt Community Housing Guidelines~~, then the residential portion of any development shall not be required to satisfy the residential development housing mitigation requirements. If none of the individual free-market residential units in a development on a landmark parcel exceed the minimum square footage for Category 2 community housing units established in the Community Housing Guidelines, the residential portion of the development shall be exempt from the inclusionary housing requirements.

A property owner is permitted to seek relief in addition to that outlined above for commercial and residential development through the zoning incentive procedures.

Exhibit "C"

Exempt Pipeline Projects

- 1. Stott's Mill**
- 2. Basalt Design District**
- 3. Jadwin**
- 4. Pokorny/Flying Fish**
- 5. St. Vincent**
- 6. Basalt Bluffs**
- 7. Arbaney Kittle**
- 8. 261 Sopris**
- 9. Wolfgang**
- 10. 237 Park Avenue**

Exhibit "A"

ARTICLE XIX

Housing Mitigation

Sec. 16-411. Purpose.

(a) Basalt is located in a unique and highly desirable valley. The Town recognizes that having a supply of community affordable-housing attainable by households earning lower and median incomes in the Town is critical to retaining a diversified and sustainable Town having the character and sense of community of a Town where people can live and work in the same area. The citizens of the Town do not want Basalt to become an exclusive community. Historically, persons earning lower and median incomes have been able to attain housing in the Basalt area, and the Town currently reflects a mix of socioeconomic backgrounds. The Town further recognizes that there is a growing gap between housing costs and wages in Basalt. Therefore, the Town Council has determined that it needs to develop and maintain a community housing program.

(b) The intent of this community affordable-housing program is to require new development to mitigate for a portion of the employees generated by such development and to reflect and maintain the Town's small town character and enhance the livability of the Town. The goal of these regulations is to require new development to provide community affordable-housing attainable by persons having lower and median incomes paying not more than approximately thirty percent (30%) ~~twenty eight percent (28%) to thirty six percent (36%)~~ of their household income for total housing expense.

(1) ~~The Town should not lose ground on the existing level of affordable housing available in and around Basalt. This means All new residential developments will integrate~~ community affordable-housing into the development or, if integration is impractical or not desired given the specific circumstance as determined at the sole discretion of the Town of Basalt, provide meaningful community affordable-housing in or near Basalt; methods will be developed to maintain the affordability of existing housing in Basalt; nonresidential projects will mitigate for impacts they create by providing ~~for~~-community affordable housing; and existing community affordable-housing will not be lost through displacement or demolition.

(2) Community affordable-housing should be dispersed throughout the community and, where possible, integrated into the existing community fabric.

(3) The Town encourages community participation in solving and benefitting from solutions to the community affordable-housing concerns. The Town intends to supplement the provisions of this Article by developing a program that looks at the total benefits to a neighborhood and to the community while relying less on numerical standards and limitations.

(4) The Town will emphasize programs that will result in the creation of community affordable-housing units -- by units being constructed or by existing units being permanently restricted for community affordable housing, either through deed restrictions or other

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methods. As an example, the Town has identified as a priority an Accessory Dwelling/Employee Dwelling Unit Program. This will include an educational program on the benefits and workings of the Accessory Dwelling/Employee Dwelling Unit Program.

(5) Community affordable housing will be transit friendly, integrate with intermodal transportation connections and perpetuate the Town's history of pedestrian walkability and ease of mass transit use.

(6) The Town will look at the total costs for all housing, including life cycle costs such as painting, building materials and energy costs. The Town will work toward a zero energy footprint for all housing.

(7) The Town's housing program should acknowledge regional issues and encourage coordination among jurisdictions including community affordable housing standards and requirements. The Town will seek out partnerships with other entities supporting community affordable housing and develop reciprocal agreements. The Town will discourage jurisdiction shopping for development proposals.

(8) The Town will support creative housing solutions, including projects that include sweat equity by those benefiting from the housing subsidy. (Ord. 6 §C, 1999; Ord. 26 §2, 2001; Ord. 33 §B1, 2003)

Sec. 16-412. Definitions.

The following definitions shall apply to the following terms and phrases:

Accessory dwelling unit or ADU shall mean a deed restricted community affordable housing unit typically required to be developed to mitigate for single-family residential development which is a separate dwelling unit that contains not less than ~~four hundred (400)~~ four hundred and fifteen (415) square feet and not more than one thousand two hundred ~~(1,000)~~ total square feet, and comprises not more than thirty-three percent (33%) of the total floor area on the lot and (a) is located within or attached to a principal dwelling unit, but has a separate entrance from such principal dwelling unit, or (b) is detached from the principal dwelling unit but located on the same lot. ADUs shall be subject to a deed restriction requiring occupancy in accordance with the Community affordable Housing Guidelines then in effect.

~~Affordable Community~~ housing shall mean dwelling units deed restricted with initial sales price and appreciation caps corresponding to the housing sizes and types set forth in the Community Housing Guidelines. Community housing units shall be (1) owned or rented and (2) occupied by individuals and households meeting income, employment and occupancy requirements set forth in the Town's Community Housing Guidelines. ~~a dwelling unit which is deed restricted in accordance with a deed restriction approved by the Town Attorney so as to be generally attainable.~~

~~Affordable Community Housing Guidelines~~ shall mean guidelines adopted by resolution of the Town Council which may include, but shall not be limited to, standards concerning the procedure for qualifying to obtain affordable community housing; the limitations (e.g., income and asset) and requirements (e.g., residency) for qualifying to obtain affordable community housing; forms of approved deed restrictions; limitations on appreciation of sale prices of

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affordable community housing; procedures for sale and rental of affordable community housing; priorities for persons bidding to purchase affordable community housing; occupancy requirements; size, and price limitations; maximum price increases; employee generation standards for commercial land uses; standards for numbers of residents per dwelling unit; land dedication standards; quality of construction requirements for new affordable community housing; and formula for calculating any payment of a fee-in-lieu of provision of affordable community housing. The affordable Community Housing Guidelines and any subsequent amendments thereto shall be adopted only after a duly noticed public hearing at which such guidelines are considered. Other terms used in this section but not defined in the Town Code are defined in the Community Housing Guidelines.

Employee dwelling unit or EDU shall mean a deed restricted community housing unit typically required to mitigate for multi-family, mixed-use, and commercial development, which separate dwelling unit contains not less than four hundred (400) and fifteen (415) square feet and not more than one thousand two hundred fifty hundred eighty-five (1,585) (1,200) total square feet square feet of floor area and (a) is located within or attached to a commercial development, but has a separate entrance from such commercial development, or (b) is detached from the commercial development but located on the same lot. EDUs shall be subject to a deed restriction requiring occupancy in accordance with the affordable Community Housing Guidelines then in effect.

Net Commercial Square Footage shall mean those areas within a commercial, industrial, or office building, which are or which are designed to be operated by the owner or leased to a tenant and occupied for commercial, industrial, or office purposes. Net Commercial Square Footage shall not include of areas dedicated to bathrooms, stairways, circulation corridors, mechanical areas and storage areas so long as these areas are used solely by the commercial owner or tenants on the site.

Net Square Footage (Feet) shall mean a calculation based on interior area that is measured from the interior walls, including all interior partitions, habitable basements (including unfinished basements that have the potential to meet habitability standards once finished), interior storage areas, and closets and laundry area. Such calculations shall not include mechanical areas, exterior storage, stairwells, garages (either attached or detached), patios, decks, and porches. Exterior storage exclusions may not exceed 10 percent (20 percent of the Net Square Footage) of the total Net Square Footage of the Community Housing or Resident-Occupied Housing.

New residential development or new commercial development shall mean any development for which a building permit has not been issued prior to the effective date of this ordinance, except the following:

(a) development which has a vested property right pursuant to Section 17-125 of this Code; or,

(b) Application for site specific development plan approval which have been determined by the Town prior to the effective date of this ordinance to be complete; and,

(c) The following applications (which were exempt from the development moratorium preceding adoption of this regulation). If any of these applications are withdrawn or denied, then any new application is subject to these regulations. If the application fails to

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comply with any subsequent submittal deadline, the Town Council may require the application to be subject to the new community housing regulations:

1. Stott's Mill
2. Basalt Design District
3. Jadwin
4. Pokorny/Flying Fish
5. St. Vincent
6. Basalt Bluffs
7. Arbaney/Kittle
8. 261 Sopris
9. Wolfgang
10. 237 Park Avenue

New commercial development shall include the development of new public and non-profit facilities that include the uses listed in Section 16-28(3) of this Chapter. Upon a recommendation from the Town Planner, the Town Council may assess, waive or partially waive community housing mitigation requirements on new public facilities by governmental and quasi-governmental agencies as is deemed appropriate and warranted for the purpose of promoting civic uses and in consideration of broader community goals. The employee generation rates may be used as a guideline, but each operation shall be analyzed for its unique employee needs.

~~New residential or new commercial development shall mean any such development for which a building permit is not issued prior to the effective date of the ordinance codified herein except development which is exempt by virtue of a vested property right pursuant to a site specific development plan as defined and established by and pursuant to Section 24-68-103, C.R.S., and Section 17-125 of this Code, or which is otherwise specifically exempt pursuant to an ordinance of the Town Council. (Ord. 6 §C, 1999; Ord. 26 §3, 2001; Ord. 33 §B1, 2003)~~

Sec. 16-413. Employee Impact and Housing Mitigation Report.

Unless waived in part or whole by the Town Planner, in order for the Town to be able to assess the need for housing mitigation generated by new nonresidential development, any application for site plan review (Sections 16-111 through 16-113), planned unit development (Section 16-65), subdivision (Sections 17-83 and 17-84), rezoning (Section 16-267), Community Priorities Scoring System (Section 16-471) or special review (Section 16-43) containing nonresidential development shall include an Employee Impact and Housing Mitigation Report prepared by a professional qualified to prepare such report and approved by the Town using recognized standards which provide, at a minimum, the following items:

- (1) An analysis of the number of full-time equivalent employees which will be added to the Town as a result of the applicant's proposed nonresidential development, including employees during and necessary for construction of the project as well as employees necessary after complete build out of the project;

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(2) An analysis of the number, size, type and configuration of all housing on the property as of January 1, 1999, which was generally attainable by households having low and median incomes (household income less than fifty thousand dollars [\$50,000.00] in 1999) paying not more than twenty-eight percent (28%) to thirty-six percent (36%) of their household income for total housing expense, including debt service or rental payments, homeowner's or renter's insurance, real estate taxes and utilities;

(3) A description of the manner in which the applicant proposes that employees will be housed, including any on-site or off-site housing the applicant will provide;

(4) A description of the methodology by which the applicant will ensure that the housing to be provided by the applicant will be maintained as housing available for employees of the Town; and

(5) A written statement verifying that the proposed development is in compliance with the then-existing Master Plan. (Ord. 27 §1, 1998; Ord. 6 §C, 1999; Ord. 26 §4, 2001)

(6) A written statement describing how the proposed development is consistent with the adopted Community Housing Guidelines and Community Housing requirements established in this Article.

Sec. 16-414. Waiver or additional information.

The Town Planner may waive the requirement of preparing and submitting ~~filing~~ the Employee Impact and Housing Mitigation Report in instances when the Town Planner finds that the preparation and filing of the report for a particular application is unduly burdensome, duplicative or unnecessary because the applicant conclusively demonstrates there will be no impacts on the employees of the community or the availability of housing in the Town generated by the proposed development; or the Town Planner conclusively finds that the applicant has proposed a plan for affordable community housing that satisfies all of the requirements of Sections 16-416, 16-417 and 16-418 below. The Technical Review Committee, Planning and Zoning Commission and Town Council may require ~~shall have the right to ask the applicant to provide for any additional~~ or supplemental information not provided in such report prior to granting any approval, denial or approval with conditions for the application. (Ord. 27 §1, 1998; Ord. 6 §C, 1999; Ord. 26 §5, 2001; Ord. 33 §B1, 2003)

Sec. 16-415. Mitigation methods.

Except as otherwise provided in this Article, a requirement to provide community affordable housing shall require construction of newly deed-restricted community affordable ~~housing~~ or recording a deed restriction against title to existing housing not previously deed restricted. The applicant shall in its development application propose the location and the mixture of type, size and configuration of the community affordable ~~housing~~ which shall be subject to the review and approval, approval with conditions or denial by in the sole discretion of the Town Council in accordance with this article. The Town Council, with information provided by the Town staff and the applicant, shall require community affordable ~~housing~~ in a location and a mixture of unit types, sizes and configurations which based on the location and nature of the development is most likely to offset the impacts of the specific development on a case-by-case basis. The proposed community housing shall meet the minimum average size, sale/rent price, and tenant/owner qualification requirements established in the Community Housing Guidelines and

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the average pricing requirements set forth in this Article and the Community Housing Guidelines.

Additionally, in determining the location and mix of unit types, sizes and configurations, the Town Council shall consider the then-perceived needs of the community for housing. Applicants are encouraged to be creative with community affordable housing proposals. The requirement to provide community affordable housing pursuant to the following residential, commercial and replacement housing sections may be satisfied in full or in part through the creation of ADUs or EDUs. This may include the construction of new ADUs or EDUs at off-site properties (i.e., properties other than the property which is the subject of the new development), the construction of new ADUs or EDUs on-site, the recording of new deed restrictions on existing accessory units, or other mechanisms subject to approval of the Town Council that will create dwelling units that are assured to meet the Town's affordability criteria on a permanent basis.

In the sole and absolute discretion of the Town Council, a requirement to provide community affordable housing may be satisfied in whole or in part by the dedication of land to the Town or an entity designated by the Town for community affordable housing. Developers may dedicate land to the Town in-lieu of providing community housing at the Town Council's sole discretion, as long as the land to be dedicated meets the following criteria:

- 1) Located within the Town's Urban Growth Boundary as defined in the Town of Basalt's Master Plan; and,
- 2) Located in an area determined to be more appropriate for community housing than the property proposed for development that generates the need for community housing mitigation; and,
- 3) The land to be dedicated in-lieu of providing community housing units shall be equal to or more than the value of the Community Housing Units required for mitigation, including total development costs such as the land, structures, and utilities. The development costs of the community housing units that the land is being dedicated in-lieu of and the value of the land being dedicated shall be determined by an appraisal from a real estate appraiser licensed in the State of Colorado. An Applicant proposing to dedicate land shall pay the cost of the appraisal.

~~Or the payment of fees in-lieu of affordable housing in accordance with the Affordable Housing Guidelines~~ In the case of fractional or partial affordable housing requirements, the a development that is required to provide 500 net square feet or less of community housing, an applicant may satisfy the requirement by payment of fees-in-lieu of community affordable housing in accordance with the Community Affordable Housing Guidelines upon approval by the Special Housing Evaluation Committee as defined in the Community Housing Guidelines. In addition, a development proposing a combination of community housing units and fees in-lieu for a fraction of unit (less than 950 net square feet) may pay fees-in-lieu for the fraction of unit at the discretion of the Special Housing Evaluation Committee. All community affordable housing required for a particular development approval shall be available for occupancy prior to or simultaneous with issuance of a certificate of occupancy for any of the non-community affordable housing components of the development, except upon approval of the Town Council of a specific phasing schedule for the development. All community affordable housing shall be

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located within the urban growth boundaries as defined in the then-current Master Plan, and shall otherwise be consistent with the goals and objectives of the then-current Master Plan. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Sec. 16-416. Residential Inclusionary Development Mitigation Requirements.

(a) All new residential development comprised of two or more units or lots unless exempted by the provisions below, including the residential component of a mixed use development shall satisfy residential inclusionary requirements by providing deed-restricted, category-level housing in the form and amount described in one of the following options: At least twenty percent (20%) of the dwelling units and fifteen (15%) of the bedrooms of all new residential development comprised of five (5) or more units or lots, including the residential component of a mixed-use development shall be affordable housing.

- (1) Community Housing equal to at least 35 percent of total Net Square Footage of the Residential Development; or,
- (2) Community Housing equal to at least 30 percent of total Net Square Footage of the Residential Development and Resident-Occupied Housing equal to at least 10 percent of total Net Square Footage of the Residential Development; or,
- (3) Community Housing equal to at least 30 percent of total Net Square Footage of the Residential Development and voluntary adoption of a 1.5 percent transfer assessment placed on the second and all subsequent sales of all market-rate units (excluding units resold to Eligible Households). The assessment shall remain in place in perpetuity. The proceeds from the assessment shall be paid to a non-profit entity specified by the Town Council for the purpose of creating Community Housing within the Town's UGB; or,
- (4) Community Housing equal to at least 25 percent of total Net Square Footage of the Residential Development and voluntary adoption of a 1.5 percent transfer assessment placed on the second and all subsequent sales of all market-rate units (excluding units resold to Eligible Households) and Resident-Occupied Housing equal to at least 10 percent of total Net Square Footage of the Residential Development.

Residential or mixed use developments creating three (3) or fewer new residential units are exempt from the residential inclusionary housing requirements set forth above if they consist of detached residential dwelling units not exceeding 3,000 total square feet each or attached residential dwelling units not exceeding 1,400 total square feet each.

(b) Category-level Community Housing Units constructed within a development to satisfy inclusionary zoning requirements shall have an average initial sales price not to exceed a sales price that is affordable to those individuals or households making one hundred fifteen percent (115%) of Basalt's Area Median Income (AMI) as is updated periodically pursuant to the method established in the Community Housing Guidelines. By way of example, if there are three (3) community housing units constructed in a development to satisfy inclusionary zoning requirements, one community housing unit could be priced to be affordable to those individuals or households making 100% of AMI, the second community housing unit could be priced to be affordable to those individuals or households making 130% of AMI, and the third community

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housing unit could be priced to be affordable to those individuals or households making 115% of AMI so that they do not average an initial sales price greater than would be affordable for those individuals or households making 115% of AMI. The bedroom mix of units used to meet the inclusionary zoning requirements shall be at the discretion of the Town Council as is set forth in Section 16-415, *Mitigation Methods*.

(c) When an applicant seeks to create only residential lots, the Inclusionary Housing requirement shall be based on the applicant's estimate at the time of the land use application of the Net Square Footage of residential development that will be constructed on such lots. The Inclusionary Housing requirement from lot creation shall generally be imposed at the time of subdivision, except upon showing of good cause to the Town Council. If additional Net Square Footage is later requested and approved, an additional housing or in-lieu payment shall be required at that time. If purchasers build smaller units than the estimate, they may sell their unused housing allocation as Community Housing Credits.

Sec. 16-417. Commercial linkage development mitigation requirements.

~~(a) All new commercial development shall pay to the Town an affordable housing mitigation fee equal to fifty cents (\$.50) per square foot of the maximum allowable square footage of a development at the time of recording in the county records of a final development approval.~~

~~(b) Additionally, all new commercial development, except for additions to or remodeling of existing structures which results in no more than one thousand (1,000) square feet of additional countable floor area, shall provide affordable housing for a maximum of twenty percent (20%) of the full-time equivalent employees generated by such development. The percentage of mitigation required shall be a number ("mitigation factor") determined by dividing the number of full-time equivalent employees generated by a development by one hundred (100). The mitigation factor shall then be multiplied by the number of full-time equivalent employees generated by the development to determine the number of full-time equivalent employees for which affordable housing shall be provided. The number of full-time equivalent employees generated by a development shall be the greater of the number of such employees as determined by the Employee Impact and Housing Mitigation Report, if any, required by Section 16-413 or the ITE Trip Generation Tables. The number of employees housed by a particular number of bedrooms per affordable housing dwelling unit shall be as determined by Table 16-417 A, as such table may be amended from time to time by the Affordable Housing Guidelines. At the time of review and approval of a development review containing new commercial development, the Town and developer shall use their best efforts to estimate the likely number of square feet of each type of use allowed in the development for purposes of this calculation.~~

TABLE 16-417 A

Type of Dwelling Unit Employees Housed Per Unit

Studio/dormitory 1.25

One-bedroom 1.75

Two-bedroom 2.25

Three-bedroom 3.00

Four or more bedrooms 3.00 plus .5 for each bedroom in excess of three bedrooms

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(a) Except as provided elsewhere in this chapter, all new commercial development, except for remodeling of existing structures which results in no more additional countable floor area, shall satisfy commercial mitigation requirements by providing deed-restricted, category-level housing for twenty-five (25%) percent of the new employees generated. If a development in the C-2 Zone District provides one-hundred (100%) percent of its Net Commercial Square Footage as being deed restricted such that it is to be sold in commercial units of 1,000 square feet or less that cannot be combined, then the mitigation rate will be reduced by half to twelve and a half (12.5%) percent.

If a development in the C-2 Zone District provides one-hundred (100%) percent of its Net Commercial Square Footage as being deed restricted such that it is to be sold in commercial units of 1,000 square feet or less that cannot be combined, and restricts the occupancy to uses identified as retail uses in the C-2 Zone District, then the mitigation rate will be reduced to zero.

(b) For mixed-use projects, only the higher of the (1) Inclusionary Housing Requirement established in Town Code Section 16-416(a), *Residential Inclusionary Requirements*, or (2) the Commercial Linkage requirements established in Town Code Section 16-417(a), *Commercial Linkage* shall apply at the lowest applicable AMI-affordability levels. By way of example, if a mixed-use project of 100,000 Net Square Feet of total Residential Development and 50,000 Net Square Feet of Commercial Development were proposed, the community housing obligation would be 35,000 square feet at an average price point affordable to a household earning 100% AMI. This represents the higher Net Square Footage requirement of Inclusionary Housing (35,000) or Commercial Mitigation (8,033), at the 100% AMI level required by Commercial Mitigation.

(c) Community Housing Units within a development constructed to satisfy commercial linkage requirements shall have an average initial sales price not to exceed a sales price that is affordable to individuals or households making one hundred percent (100%) of Basalt's AMI as is updated periodically pursuant to the method established in the Community Housing Guidelines. By way of example, if there are three (3) community housing units constructed in a development to satisfy commercial linkage requirements, one community housing unit could be priced to be affordable to individuals or households making 80% of AMI, the second community housing unit could be priced to be affordable to individuals or households making 120% of AMI, and the third community housing unit could be priced to be affordable for those individuals or households making 100% of AMI so that they do not average an initial sales price greater than would be affordable to those individuals or households making 100% of AMI. The bedroom mix of units used to meet the commercial linkage requirements shall be at the discretion of the Town Council as is set forth in Section 16-415, *Mitigation Methods*.

(d) The Community Housing demand generated by a Commercial Development shall be determined by utilizing an average job generation rate of 4 employees per 1,000 net square feet of commercial space with adjustments for multiple job holding and multiple employees per Household. Job generation rates and mitigation rates are based on the 2009 Town of Basalt Housing Support Study. The mitigation requirements shall be discounted by taking into account multiple job holdings of 1.25 jobs per employee and multiple employees per household of 1.73 employees per household as is demonstrated in the example below.

By way of example, below is the housing demand requirement for a new 3,000 net square foot of commercial space:

Underlined language shows language to be added to the Code. Strikethrough language is language proposed to be deleted.

3,000 of net leasable square feet divided by 1,000; multiplied by a job generation rate of 4 full-time employees per 1,000 net square feet of commercial space; divided by 1.25 Jobs per Employees, divided by 1.73 Employees per Household; multiplied by .25 (25% of employees generated) mitigation requirement equals 1.38 community housing units required, multiplied by 950 net square feet per community housing unit equals 1,317 net square feet of community housing required.

(e) If the applicant can document, to the TRC's reasonable satisfaction, that the proposed commercial development will generate fewer jobs per 1,000 net square feet than the rate of jobs identified above for the life of the project, then the Town may allow the Applicant to use the anticipated lower job-generation rate in calculating Commercial Mitigation obligations. The TRC may require a request to use a lower job generation rate to be reviewed by the Town Council or an Applicant may appeal the TRC's determination to the Town Council. The bedroom mix of units used to meet the commercial linkage requirements shall be at the discretion of the Town Council as set forth in Section 16.415, *Mitigation Methods*.

Sec. 16-418. Replacement housing requirements.

Redevelopment of any property in the Town or newly annexed to the Town which, as of January 1, 1999, had four (4) or more residential housing units generally attainable by persons with a household income of fifty thousand dollars (\$50,000.00) on January 1, 1999, shall replace one hundred percent (100%) of such housing with community affordable—housing. Any such replacement community affordable—housing may be located on the property being redeveloped or on any other property within the urban growth boundaries as identified in the then-current Master Plan. The unit type and configuration of any such replacement housing shall be as similar in nature and number of bedrooms as reasonably possible and shall be subject to approval by the Town Council. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Sec. 16-419. Fee exemptions.

Community affordable—housing, including deed-restricted ADUs and EDUs, may be exempted by the Town Council from the payment of certain fees required by this Code, such as fees or land dedications required for park land dedication, school land dedication, special improvement fees and water tap fees in special circumstances. (Ord. 6 §C, 1999; Ord. 33 §B1, 2003)

Secs. 16-420—16-430. Reserved.

Underlined language shows language to be added to the Code. Strikethrough language is language proposed to be deleted.

Exhibit "B"

Section 16-394 (e)

Historic Preservation Incentives

(e) Affordable Community Housing.

(1) ~~Affordable Community~~ housing for commercial development. The remodel of a landmark with new commercial square footage which results in no more than three thousand (3,000) square feet of additional countable floor area subsequent to August 14, 2001, shall be exempt from the ~~affordable housing commercial housing~~ mitigation requirements including the ~~affordable housing mitigation fee of fifty cents (\$.50) per square foot and the requirement to provide mitigation for a maximum of at least twenty percent (20%)~~ twenty-five percent (25%) of the full-time equivalent employees generated by such development. The portion of new commercial countable floor area in excess of three thousand (3,000) square feet shall be subject to the affordable community housing mitigation requirements but shall be ~~permitted to take advantage of the sliding scale as the employees attributable to the first three thousand square feet will not count in calculating the mitigation factor.~~

(2) ~~Affordable Community~~ housing for ~~residential development~~ inclusionary zoning. ~~If all residential units on a landmark parcel satisfy the category 1 or Category 2 size restrictions included in the Town of Basalt Community Housing Guidelines, then the residential portion of any development shall not be required to satisfy the residential development housing mitigation requirements. If none of the individual free-market residential units in a development on a landmark parcel exceed the minimum square footage for Category 2 community housing units established in the Community Housing Guidelines, the residential portion of the development shall be exempt from the inclusionary housing requirements.~~

A property owner is permitted to seek relief in addition to that outlined above for commercial and residential development through the zoning incentive procedures.

Exhibit "C"

Exempt Pipeline Projects

- 1. Stott's Mill**
- 2. Basalt Design District**
- 3. Jadwin**
- 4. Pokorny/Flying Fish**
- 5. St. Vincent**
- 6. Basalt Bluffs**
- 7. Arbaney Kittle**
- 8. 261 Sopris**
- 9. Wolfgang**
- 10. 237 Park Avenue**