

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, REGARDING COMMUNITY HOUSING, APPROVING  
AMENDMENTS TO BASALT MUNICIPAL CODE SECTION 16-415, METHODS  
OF MITIGATION, AND ADDING SECTION 16-420, CERTIFICATES OF  
COMMUNITY HOUSING CREDITS TO THE MUNICIPAL CODE OF THE TOWN  
OF BASALT, COLORADO**

**Ordinance No. 05  
Series of 2014**

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. At a public meeting held on February 18, 2014, the Planning and Zoning Commission considered the proposed code amendments. At the public meeting, the Planning and Zoning Commission heard evidence and testimony as offered by the Town Staff and members of the public. The Planning and Zoning Commission recommended approval of the code amendments.

3. At a public hearing on February 25, 2014, the Town Council approved this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for March 11, 2014, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

4. At the March 11, 2014, public hearing, the Town Council continued the public hearing and second reading to March 25, 2014.

5. At the continued public hearing and second reading on March 25, 2014, the Town Council heard evidence and testimony as offered by the Town Staff, and members of the public.

6. The Basalt Town Council finds, determines and concludes that the proposed code amendments are necessary to protect the health, safety, welfare and quality of life for the citizens of the Town.

7. 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:

1. Chapter 16, Zoning, is hereby amended as shown in **Exhibit A**.
2. 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.
3. 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 March 11, 2014 by a vote of 6 to 1 on February 25, 2014. THE PUBLIC HEARING AND SECOND READING WAS CONTINUED TO March 25, 2014.

READ ON SECOND READING AND ADOPTED, by a vote of 6 to 0, on March 25, 2014.

TOWN OF BASALT, COLORADO

By: \_\_\_\_\_  
Jacque R. Whitsitt, Mayor

ATTEST:

\_\_\_\_\_  
Pamela K. Schilling, Town Clerk

First Publication: Thursday, March 6, 2014  
Final Publication: Thursday, April 3, 2014  
Effective Date: Thursday, April 17, 2014

Language underlined is being added to the current code and language struck-through is being deleted.

**Exhibit A**

**Proposed Changes to Chapter 16 Zoning.**

Amend Section 16-415, *Mitigation methods* to add the following language to the existing section that discusses alternatives to providing community housing on-site:

**Sec. 16-415. Mitigation methods.**

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Except as otherwise provided in this Article, a requirement to provide community housing shall require construction of newly deed-restricted community 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 housing which shall be subject to the review and approval, approval with conditions or denial by the Town Council in accordance with this Article. The Town Council, with information provided by the Town staff and the applicant, shall require community 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 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 housing proposals. In accordance with CRS 38-12-301, rental housing subject to rent controls will only be approved by the Town if it is provided (1) pursuant to a voluntary agreement between the Town and a permit applicant or property owner, and / or (2) it includes the placement on the title to such housing units of a deed restriction that limits rent on the property or unit or that is otherwise designed to provide affordable housing stock pursuant to a voluntary agreement between the Town and a permit applicant or property owner.

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At the discretion of the Town, Development projects may use affordable housing credits pursuant to Town Code Section 16-420(d), Certificates of Community Housing Credits or pay fees-in-lieu of providing Community Housing pursuant to the payment-in-lieu schedule set forth in the Town's Community Housing Guidelines, for a portion or all of their community housing mitigation, inclusionary housing requirements, or replacement housing requirements as follows:

A) Commercial Development.

- 1) Commercial development projects required by the Town Code to provide 7,000 square feet or less of community housing, and that are not proposing to include a free-market residential component, may satisfy all or a portion of their community housing mitigation through use of Certificates of Community Housing Credits or by paying fees-in-lieu, or through a combination thereof.
- 2) Commercial development projects required by the Town Code to provide greater than 7,000 square feet of community housing and that are not proposing to include a free-market residential component, may satisfy all or a portion of their first 7,000 square feet of community housing mitigation, and up to 75% of the additional community housing mitigation required through the use of Certificates of Community Housing Credits or by paying fees-in-lieu, or through a combination thereof. Additionally, up to 100% of the community housing mitigation for a commercial development project requiring more than 7,000 square feet of community housing may be satisfied through the use of Certificates of Community Housing Credits or through payment of fees-in-lieu, if authorized through Special Review pursuant to the review process established in Town Code Section 16-44, *Special review application procedures.*

B) Mixed Use or Residential Development.

- 1) Mixed use or residential development projects that are required by the Town Code to provide 7,000 square feet or less of community housing, may satisfy all or a portion of their community housing mitigation or inclusionary housing square footage through use of affordable housing credits or by paying fees-in-lieu, or through a combination thereof.
- 2) Mixed use or residential development projects that are required by the Town Code to provide greater than 7,000 square feet of community housing, may satisfy all or a portion of their first 7,000 square feet of community housing mitigation, and up to 50% of the additional community housing mitigation through the use of affordable housing credits or by paying fees-in-lieu, or through a combination thereof.

In the event that an application to mitigate for community housing by the use of housing credits or cash-in-lieu where development of a property is being considered in conjunction with other development review applications which require review by the Planning and Zoning Commission or the Town Council, the final decision maker shall make the final determination on a project's ability to use housing credits or pay cash-in-lieu after a recommendation from the Town's housing advisory board, if one exists. If an application to use housing credits or cash-in-lieu for development of a property does not have any associated development review actions that require review by the Planning and Zoning Commission or the Town Council, the Town Planner will issue the Certificate of Community Housing Credit if it meets the technical and legal

requirements set forth in Town Code Section 16-420, *Certificates of Community Housing Credits*, after a recommendation from the Town's housing advisory board, if one exists.

~~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 housing in accordance with the Community 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 a unit (less than 950 net square feet) may pay fees-in-lieu for the fraction of a unit at the discretion of the Special Housing Evaluation Committee may be authorized at the discretion of the Town Council.~~

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Add Section 16-420, *Certificates of Community Housing Credits* as follows:

**Section 16-420. *Certificates of Community Housing Credits.***

This section describes the process for establishing, transferring and extinguishing a Certificate of Community Housing Credit.

- (a) Applicability and Issuance- The Town Planner, in accordance with the procedures, standards, and limitations of this section, shall issue a Certificate of Community Housing Credit ("CCHC") to the developer of deed restricted, community housing units that are not required for commercial mitigation or inclusionary housing, upon the issuance of a certificate of occupancy on such units. At the time of issuance of a CCHC by the Town, a letter acknowledging the receipt and acceptance of the certificate shall be submitted by the owner to the Town Planning Department.

CCHC's are issued to reflect credits based upon net square footage and are not to be based upon unit count. CCHC's may only be issued for the net square footage in the units developed in excess of any applicable housing mitigation requirements. The term net square footage as used herein means the interior calculation of the actual square footage of a project and shall not include common circulation space or floor area located outside of the actual applicable dwelling unit(s). The CCHC shall contain the following information:

- i. A number of the Certificate in chronological order of their issuance.
  - ii. Parcel identification number, legal address and the street address of the affordable housing.
  - iii. The Category Designation and the net square footage of the Community Housing Credit.
- (b) Transferability- A CCHC may be sold, assigned, transferred, or conveyed. Transfer shall be evidenced by an assignment of ownership on the actual certificate

document. Upon transfer, the new owner may request that the Town Planner re-issue the CCHC acknowledging the new owner.

- (c) Market for Certificates- The market for CCHC's is unrestricted and the Town shall not prescribe or guarantee the monetary value of a CCHC.
- (d) Using CCHC Credits- Pursuant to the review procedures established in Section 16-415, Mitigation Methods, the Town may permit the use of a CCHC to serve as Community Housing mitigation for a development project. A Certificate that is being used within the Town of Basalt to satisfy Community Housing requirements in-lieu of developing Community Housing shall provide community housing credit in the amount of the net square footage and for the Category Designation listed on the Certificate. The Town Planner may allow the conversion of a Certificate of a certain Category Designation for a Certificate of another Category Designation pursuant to the payment of a fee to the Town based on the following calculation methodology:

Step 1. Calculate the difference between the per square foot cash-in-lieu amount for the Category Designation listed on the Certificate and for the desired Category Designation as the per square foot cash-in-lieu amounts are listed in the Town's Community Housing Guidelines.

Step 2. Multiply the net square footage listed on the CCHC by the difference in cash-in-lieu amounts yielded in Step 1. The developer wishing to exchange the CCHC for another lower Category shall pay the amount yielded from this calculation.

Example: An owner of a Category 3 Certificate wishes to exchange the Certificate for a Category 2 Certificate. The existing Certificate is for 1,000 square feet of Community Housing.

Step 1. Category 2 Cash-in-lieu per square foot=\$232.55  
Category 3 Cash-in-lieu per square foot=\$176.88  
Per Square Foot Difference= \$55.67

Step 2. \$55.67 Per Square Foot Difference X 1,000 square feet= \$55,670 to convert from a Category 3 Certificate to a Category 2 Certificate for 1,000 square feet.

Upon approval of a Category Designation conversion and the associated payment of any required amount to the Town, the Town Planner shall reissue the Certificate with the new Category Designation.

A developer or credit Certificate holder wishing to exchange a Certificate of Community Housing Credit in place of a higher Category requirement may do so without paying an additional fee. By way of example, if a developer is required to build a 1,000 square feet of Category 3 housing and they use a Category 2 CCHC for 1,000 square feet, the developer would not be required to pay an additional fee.

(e) Appeals- An individual aggrieved by a determination made by the Town Planner, may appeal the decision to the Town Council pursuant to the procedures and standards of Chapter 16-11, General Appeal Procedures.