

**Ordinance No. 19  
Series of 2015**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, APPROVING AMENDMENTS TO PORTIONS OF CHAPTER 16,  
ZONING, AND CHAPTER 17, SUBDIVISION OF THE MUNICIPAL CODE OF  
THE TOWN OF BASALT, COLORADO, CONCERNING COMMUNITY  
HOUSING (PREVIOUSLY REFERRED TO AS AFFORDABLE HOUSING)  
REQUIREMENTS AND AMENDING THE TOWN'S FEE SCHEDULE**

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 work sessions to consider recommendations from the Town's housing consultants and the Basalt Affordable Community Housing (BACH) Committee and to formulate the proposed amendment to the Town's community housing policies and regulations.

3. At a public hearing held on September 15, 2015, the Planning and Zoning Commission heard evidence and testimony from the Town Staff, and members of the public. The Planning and Zoning Commission recommended approval of the proposed code amendments.

4. At a public hearing on September 29, 2015, the Town Council approved this Ordinance on first reading and continued and set a public hearing and second reading for this Ordinance for October 13, 2015, 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 October 13, 2015, the Town Council heard evidence and testimony from the Town Staff and members of the public and continued the public hearing and second reading to October 27, 2015. At the continued public hearing and second reading on October 27, 2015, 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. Economic and Planning Systems (EPS), prepared a Housing Conditions Report for the Town dated April of 2015. The Housing Conditions Report identified a significant demand for affordable housing and provides recommendations related to attaining additional affordable housing.

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.*

5. 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.

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

7. 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.

8. 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.

9. 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.

10. In 2013, it was determined that 45% of Basalt Residents making under 150% of the Area Median Income (AMI) were cost burdened and therefore, the Town could legally require up to 45% of a project to be developed as Affordable Housing. It was recognized that it was not realistic to require a new development to mitigate at 45% and that it is a policy decision to determine what percentage under 45% is appropriate.

11. The 2009 Basalt Community Housing- Strategy Support Study prepared by Rees Consulting, Inc. and RRC Associates Inc. expressed that keeping the in-commuting percentage the same as it was in 2009 could be a goal on which the residential linkage should be based. In 2009 it was identified that 25% of the employees who worked in Basalt also lived in Basalt. In the 2014 Regional Transportation Travel Patterns Study prepared by Charlier and Associates for RFTA, it was shown that the percentage of the Basalt workforce living in Basalt is in 25-30% range. The inclusionary housing requirement of 25% is consistent with the community goal of maintaining the percentage of the Basalt workforce that lives in Basalt.

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

C. In order to offer additional incentives for the development of Affordable Housing, Town Code Section 16-419, Fee Exemptions and Town Code Section 17-102, *Subdivision: Improvement Agreements* are hereby amended as shown in Exhibit "B".

D. The Town's Fee Schedule is hereby amended as shown in Exhibit "C".

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.

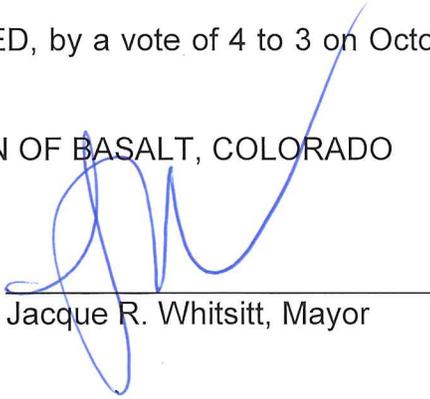
F. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON October 13, 2015 by a vote of 5 to 2 on September 29, 2015.

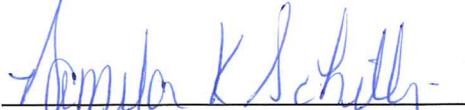
READ ON SECOND READING AND ADOPTED, by a vote of 4 to 3 on October 27, 2015.

TOWN OF BASALT, COLORADO

By:

  
\_\_\_\_\_  
Jacques R. Whitsitt, Mayor

ATTEST:

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

Ord 19 HousingCode Amendments

First Publication: Thursday, October 8, 2015  
Final Publication: Thursday, November 5, 2015  
Effective Date: Thursday, November 19, 2015

## Exhibit "A"

### ARTICLE XIX

#### **Sec. 16-411. Purpose.**

(a) Basalt is located in a unique and highly desirable valley. The Town recognizes that having a supply of community 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 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 housing attainable by persons having lower and median incomes paying not more than approximately thirty percent (30%) of their household income for total housing expense.

(1) All new residential developments will integrate community 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 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 community housing; and existing community housing will not be lost through displacement or demolition.

(2) Community 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 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 housing units -- by units being constructed or by existing units being permanently restricted for community housing, either through deed restrictions or other methods. As an example, the Town has identified as a priority an Accessory Dwelling/Employee Dwelling Unit Program. This will include an educational program

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on the benefits and workings of the Accessory Dwelling/Employee Dwelling Unit Program.

(5) Community 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 housing standards and requirements. The Town will seek out partnerships with other entities supporting community 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 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 and fifteen (415) square feet and not more than one thousand (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 Housing Guidelines then in effect.

*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.

*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 community housing; the limitations (e.g., income and asset) and requirements (e.g., residency) for qualifying to obtain community housing; forms of approved deed restrictions; limitations on appreciation

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of sale prices of community housing; procedures for sale and rental of community housing; priorities for persons bidding to purchase 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 community housing; and formula for calculating any payment of a fee-in-lieu of provision of community housing. The 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 five hundred eighty-five (1,585) total square feet 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 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,

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(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 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.

**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 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 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 the applicant to provide 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 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 in accordance with this article. The Town, with information provided by the Town staff and

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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 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.

The requirement to provide community 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 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 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

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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.

All community 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 housing components of the development, except upon approval of the Town Council of a specific phasing schedule for the development. All community housing shall be 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)

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

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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.

#### **Sec. 16-416. Residential Inclusionary 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:

- (1) Community Housing equal to at least ~~35~~ twenty-five (25%) percent of total Net Square Footage of the Residential Development and twenty (20) percent of the total residential units; 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)~~(2) Community Housing equal to at least ~~30~~ 15 percent of total Net Square Footage of the Residential Development and 15 percent of the total residential units, 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

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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~~ 100%) 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~~ 120% of AMI, and the third community housing unit could be priced to be affordable to those individuals or households making ~~115~~ 80% of AMI so that they do not average an initial sales price greater than would be affordable for those individuals or households making ~~115~~ 100% 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 requirements.**

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

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countable floor area, shall satisfy commercial mitigation requirements by providing deed-restricted, category-level housing for ~~twenty-five~~ fifteen 15% (~~25-~~ 15%) 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~~ ten (~~12.5~~ 10%) 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 ~~400-~~ 80% AMI. This represents the higher Net Square Footage requirement of Inclusionary Housing (35,000) or Commercial Mitigation (21,935), at the ~~400~~ 80% 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~~ eighty percent (~~400~~ 80%) 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 ~~420~~ 100% of AMI, and the third community housing unit could be priced to be affordable for those individuals or households making ~~400-~~ 60% of AMI so that they do not average an initial sales price greater than would be affordable to those individuals or households making ~~400~~ 80% 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

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~~2009~~ 2014-2015 ~~Town of Basalt Housing Support Study~~ Housing Needs Assessment. The mitigation requirements shall be discounted by taking into account multiple job holdings of ~~4.25~~ 1.24 jobs per employee and multiple employees per household of ~~4.73~~ 1.43 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 ~~4.25~~ 1.24 Jobs per Employees, divided by ~~4.73~~ 1.43 Employees per Household; multiplied by ~~.25~~ .15 (~~25~~ 15% of employees generated) mitigation requirement equals 1.01 community housing units required, multiplied by 950 net square feet per community housing unit equals 959 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.

(a) General Requirement. The development and/or redevelopment of any property within the Town or to be annexed thereto, on which, as of January 1, 1999, there were located four (4) or more residential housing units, the occupancy of which was financially attainable by persons with household incomes of fifty thousand dollars (\$50,000.00) on January 1, 1999, hereinafter referred to as "lower-income housing," must comply with the requirements of this Section.

(b) Compliance Alternatives. The applicant shall be required to provide relocation assistance as described in Subsection (1) below or replacement housing as described in Subsection (2) below, or some combination of relocation assistance and replacement housing, as approved by the Town Council. Relocation assistance shall be due from the applicant to tenants of mobile homes and other lower-income housing units and to owners of mobile homes. Replacement housing may also be required of the applicant, as described below.

(1) Relocation Assistance. For each lower-income housing unit that is occupied on the date the application is submitted, whether by tenants or by mobile home owners, the applicant shall make a payment for relocation assistance to each such tenant or the owner of a mobile home in amounts to be determined below.

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(A) In determining the amount of the relocation assistance to be provided by the applicant to a tenant (leasing any stick built unit or a mobile home unit), the Town shall consider the following factors:

- (i) Duration of tenant's occupancy (\$100.00 per year up to \$2,000.00);
- (ii) Annual rental rates paid by tenant (One year's rent at average of prior two (2) years);
- (iii) Number of persons occupying the premises in accordance with the applicable lease and based on proof of residency (\$500.00 per person up to \$3,000.00); and
- (iv) Responsibility for, and amount of, costs associated with relocating to a new location of \$5,000.
- (v) The sum of the amount of compensation referred to in subparagraphs A(i) through A(iv) above will be the maximum required by the Town unless the Town Council determines that unusual circumstances justify additional compensation.

(B) In the event that an Owner occupies mobile home unit the Owner shall receive the compensation outlined in subsection (A) above for the tenant plus an additional amount for the mobile home. In determining the amount of additional relocation assistance to be provided by the applicant, to the owner of a mobile home who occupies the home, the Town will consider the following factors:

- (i) Value of the home;
- (ii) Whether the home can be relocated for future use; and
- (iii) Responsibility for, and amount of, costs associated with the relocating or removing the home from the Property.
- (iv) However, unless the Town Council determines that unusual circumstances justify additional compensation, the Town shall not require an applicant to pay more than \$7,500 to a Owner where the Owner moves the mobile home off the site, and \$2,500 to a Owner where the applicant is required to

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move the mobile home off the site in addition to the amount of compensation required by the Town to be paid pursuant to this subsection (A) above.

(C) In determining the amount of relocation assistance to be provided by the applicant, to the owner of a mobile home who does not occupy the home, the Town shall consider the following factors:

- (i) Value of the home;
  - (ii) Whether the home can be relocated for future use; and
  - (iii) Responsibility for, and amount of, costs associated with the relocating or removing the home from the Property.
- (IV) However, unless the Town Council determines that unusual circumstances justify additional compensation, the Town shall not require an applicant to pay more than \$7,500 to an Owner where the Owner moves the mobile home off the site, and \$2,500 to a Owner where the applicant is required to move the mobile home off the site. For clarification, the applicant will also be required to provide relocation assistance to the tenant as provided in subsection (A) above.

(D) In determining the amount of relocation assistance to be paid as provided above, the Town may require that tenants and mobile home owners provide to the Town the information reasonably necessary to document an entitlement to the type and amount of relocation assistance to be required.

(E) The Applicant may offer non-cash assistance to tenants of occupied lower-income housing units or the owner of a mobile home, and if accepted by the tenant or owner, such non-cash assistance shall reduce the amount of payment. Non-cash assistance may include, for example, locating housing, loans, and professional housing and financial counseling.

(F) Payments shall be made to the tenant listed on the ground lease for the mobile home site and to the mobile home owner listed on the title to the mobile home. The tenant or mobile home owner-occupant shall be responsible for relocation of all individuals residing in the lower-income housing unit. Final payment may be withheld by the applicant until

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inspection has been made to ensure that all property is removed pursuant to the final payment agreement between the applicant and the tenant or mobile home owner.

(2) Replacement Housing.

(A) For each lower-income housing unit that is vacant or has been removed from the property on the date of the application, the applicant shall provide as specified in this section unless (i) the applicant demonstrates that the last tenant of the lower-income housing unit (or the owner of a mobile home occupied by the owner) was provided relocation assistance consistent with the provisions of Section 16-418 (b)(1) Relocation Assistance above.

(B) If replacement housing is required, the applicant shall provide replacement housing equal to forty-five percent (45%) of the lower-income housing units that were vacant or removed on the date of the application and which do not qualify for one of the two exceptions listed in subsection (A) above. In the event that this calculation includes a fraction, the applicant shall pay a fee-in-lieu for the fractional amount as determined in accordance with the Basalt Community Housing Guidelines.

(C) Replacement Housing Defined Each required replacement housing unit must meet the following requirements:

(1) The new unit must be of a type, size, configuration, and quality that are comparable to the unit being replaced;

(2) The new unit must be subject to a sale price or rental rate that is lower-income, i.e., affordable to individuals or households earning no more than seventy percent (70%) of Area Median Income;

(3) The replacement unit must be subject to a deed restriction to ensure that the sale and resale price will remain affordable, pursuant to the Community Housing Guidelines, unless the replacement unit is a mobile home and the Town Council determines that there is a reasonable expectation that the mobile home will remain affordable to households earning no more than seventy percent (70%) of the Area Median Income for at least that period stated in the Community Housing Guidelines.

(4) The replacement units must be in one of the following locations, subject to approval by the Town Council:

(A) The property being redeveloped; or

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(B) The urban growth boundaries as identified in the then-current Master Plan; or

(C) The urban growth boundary or urban service boundary of the 1999 Basalt Master Plan and identified with a future land use designation on the Future Land Use Plan Map in the then-current Master Plan; or

(D) An existing dwelling unit within the Town's three mile planning area included in its then-current Master Plan that is within one thousand five hundred (1,500) feet from the nearest bus stop (as measured to the upvalley or downvalley stop that is closest to the dwelling unit); or

(E) A mobile home pad with an existing mobile home park that is located within the Town's three mile planning area included in its then-current Master Plan provided that the pad is within one thousand five hundred (1,500) feet from the nearest bus stop (as measured to the upvalley or downvalley stop that is closest to the dwelling unit).

(F) In the case of Subsections (D) and (E) above, the Town Council is permitted to approve a distance greater than one thousand five hundred (1,500) feet from the existing unit to the nearest bus stop if the Town Council finds there are compelling circumstances that justify the greater distance.

(5) If the replacement unit is a mobile home, it must be located in accordance with applicable land use and building code requirements;

(d) Variances. The Town Council may approve variances from the strict application of the requirements of this Section where it is found to be appropriate to achieve the purposes of this Section.

(e) Relationship to Housing Mitigation Requirements. The relocation assistance and replacement housing provided by an applicant in accordance with this Section shall reduce the requirements of Section 16-416 and 16-417 on a proportional basis, as determined by the Town Council.

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**Sec. 16-419. Fee exemptions.**

Community 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)

**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

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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~~ \$139.53  
Category 3 Cash-in-lieu per square foot=~~\$176.88~~ \$106.12  
Per Square Foot Difference= ~~\$55.67~~ \$33.41

Step 2. ~~\$55.67~~ \$33.41 Per Square Foot Difference X 1,000 square feet=~~\$55,670~~ \$33,410 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*.

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**Secs. 16-421—16-430. Reserved.**

**Section 16-394 (e)**

***Historic Preservation Incentives***

(e) Community Housing.

(1) 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 commercial housing mitigation requirements including the ~~twenty-five~~ fifteen percent (~~25~~15%) 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 community housing mitigation requirements

(2) Community housing for inclusionary zoning. 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.

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## Exhibit "B"

### (Incentives)

**Section 16-419 - ~~Fee exemptions~~, is amended as follows:**

Community housing, including deed-restricted ADUs and EDUs, may be reduced or 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, building permit fees, the Water Tank Surcharge, special improvement fees and water tap fees in special circumstances. The Town Council shall consider the financial impacts of any waiver or reduction on the Town's operations in evaluating a request for a reduction or a waiver.

**Section 17-102 ~~Subdivision: Improvement Guarantees~~, is amended as follows:**

(a) The Town Council shall require that the cost of providing all public improvements applicable to the subdivision shall be paid prior to the issuance of the first building permit for the subdivision. The costs shall include all improvements described in the subdivision agreement. The improvement guaranty may be provided with a surety bond, cash or acceptable collateral, an acceptable letter of credit, or other security acceptable to the Town Council. Upon final plat, the property owner shall provide either an improvement guaranty as provided for in this Section or, to ensure that lots are not sold until such time as an acceptable guaranty has been provided by the property owner, the property owner shall provide the Town with security acceptable to the Town, such as a deed of trust on the property for the benefit of the Town, until substituted with an improvement guaranty pursuant to this Section. The Town Manager may waive or partially waive the public improvement security requirements for buildings or development projects proposing considerably more affordable housing than is required by the Town Code.

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## Exhibit "C"

**Town of Basalt Fee Schedule- Planning Department Section of Town Fee Schedule is amended as follows:**

Town of Basalt  
Planning Department

### Fees & Deposits

Below are listed a summary of Application Fees, required deposits, and development review costs and charges. The Town Manager may waive or reduce Planning Department Review Fees for projects that are proposed to considerably exceed the Town's housing mitigation requirements.

Applicants are subject to the following Application fees to be paid at the time of Application submittal to the Town:.....