

**Town of Basalt, Colorado
Ordinance No. 18
Series of 2012**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,
COLORADO, ESTABLISHING A PROCESS FOR REMOVING THE RESIDENT
OCCUPIED (RO) RESTRICTION ON INDIVIDUAL UNITS AND AMENDING
THE MASTER DECLARATION OF COVENANTS CONCERNING
OCCUPANCY AND RESALE FOR LIVE/WORK RESIDENT OCCUPIED UNITS
IN WILLITS TOWN CENTER PUD, BASALT, COLORADO**

RECITALS

A. Pursuant to the Master Declaration of Covenants Concerning Occupancy and Resale for the Live/Work Resident Occupied Units in the Willits Town Center PUD, recorded at Reception No. 763042 of the records of the Eagle County, Colorado, on July 25, 2001 ("the Master Declaration"), the Declarant Jayco, LLC, and the Town of Basalt ("the Town"), Colorado agreed to limitations on the use, occupancy, and resale of Resident Occupied (RO) Units, including Units 216, 218, 220, 222, and 310 of Market Street Lofts, located within Block 10 of Willits Town Center ("the RO Units").

B. The owners of these RO Units have requested that the Town agree to the termination of the Master Declaration of Covenants on these RO Units.

C. The Town and the RO Unit owners as the successors in interest to the Declarant may agree to the termination of the Master Declaration on these RO Units.

D. The benefits of the Master Declaration which run in favor of the Town constitute property rights, and pursuant to Article 1, Section 1-3 of the Home Rule Charter, the Town has the power to dispose of such property rights by ordinance.

E. The Town Council held worksessions on August 28, 2012 and on September 27, 2012, to discuss the request of the RO unit owners in Market Street Lofts.

F. At a public meeting held on October 23, 2012, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public. At the public meeting held on October 23, 2012, the Town Council considered this Ordinance on first reading and scheduled a public hearing and second reading for this Ordinance for November 13, 2012, at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado. The public hearing and second reading was continued to November 27, 2012 at the November 13, 2012 meeting.

Please return to:
TOWN OF BASALT
101 Midland Avenue
Basalt, CO 81621

G. The Town Council finds and determines it is in the best interests of the Town to approve this Ordinance. The Town Council finds and determines this Ordinance is reasonable and consistent with the Town Code. Further, the Town Council finds and determines this Ordinance is reasonably necessary to promote the legitimate public purposes of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO AS FOLLOWS:

A. FINDINGS. The Town Council hereby incorporates by reference and conclusively makes the findings provided herein.

1. The Town Council finds that the Applicant's request is consistent with the applicable provisions of the Town Code, provided the Applicant adheres to the conditions identified in this Ordinance.
2. Based on the evidence, testimony, exhibits, and comments from the public, Applicants and Town staff, the Town Council finds and determines in accordance with Sections 16-72, Town Code, as follows:
 - a. The Town Council finds that the Applicant's request is consistent with the applicable provisions of the Town Code, provided applicant adheres to the conditions identified in this Ordinance.
 - b. The Application is consistent with the standards of review found in Section 16-72, provided the Applicant adheres to the conditions herein, because the Application is consistent with the Town Master Plan; it will not have environmental impacts such as traffic hazards and will not overload utilities or otherwise be detrimental to the general welfare of the community; and the proposal will complement and be integrated with the existing development in the area.
 - c. The RO Unit owners' request is based on a dramatic financial hardship as demonstrated by the RO Unit values being dramatically less than the original purchase prices of the units due to the worldwide financial crisis and the inability of lenders to provide refinancing on these RO Units.
 - d. The Town Council finds that the developer of Willits Town Center is not being negatively impacted because the Town is agreeing that the units satisfied the requirements for deed restricted units at the time they were sold, so the floor area for the units subject to this ordinance was exempted from the allowable floor area allocation and that is not being altered by this ordinance.

B. CONCLUSIONS. The Town Council hereby grants approval of a process by which the owners of Units 216, 218, 220, 222, and 310 in the Market Street Lofts may apply and be considered by the Town Manager to have the Willits Town Center RO Master Declaration of Covenants removed from their units as outlined in **Exhibit A** and grants approval of an amendment to the Master Declaration of Covenants concerning Occupancy and Resale of the Resident Occupied Units in the Willits Town Center.

C. MISCELLANEOUS.

1. The approvals and conditions contained herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the Applicant and the owner of the Property.

2. This Ordinance, after fully executed, shall be recorded in the office of the Clerk and Recorder of Eagle County.

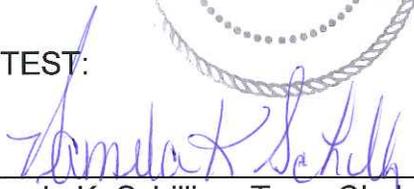
3. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, 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.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON November 13, 2012 by a vote of 4 to 2 on October 23, 2012. The public hearing was continued to November 27, 2012 at the November 13, 2012 meeting.

READ ON SECOND READING AND ADOPTED, by a vote of 4 to 3 on November 27, 2012.



ATTEST:



Pamela K. Schilling, Town Clerk

TOWN OF BASALT, COLORADO

By:



Jacquie R. Whitsitt, Mayor

First Publication: Thursday, November 1, 2012
Final Publication: Thursday, December 6, 2012
Effective Date: Thursday, December 20, 2012

Exhibit A

**Procedures for Removing Resident Occupancy (RO)
Restrictions in Willits Town Center**

1. Submittal Requirements.
 - a. Submit a completed Town of Basalt Development Review Application Form; and,
 - b. Payment of \$100 non-refundable fee and execution of a reimbursement agreement; and,
 - c. Provide evidence that the inability to refinance a unit is due to the Resident Occupancy (RO) restrictions; and,
 - d. Provide evidence that the inability to refinance a loan is presenting a financial hardship on the unit owner.
2. Review Procedure. The Town Manager may grant requests for removal of individual units from the Willits Town Center Resident Occupancy (RO) restrictions, subject to finding that a request for removal satisfies the following criteria:
 - a. Sufficient evidence has been provided to determine that the inability of a unit owner to refinance is due to the Resident Occupancy (RO) restrictions that exist on the unit; and,
 - b. Sufficient evidence has been provided to determine that the inability to refinance a loan is presenting a financial hardship on the unit owner; or,
 - c. Other extenuating circumstances are present that demonstrate the existence of an unusual hardship justifying the removal of the Resident Occupancy (RO) restrictions such as an owner purchasing a unit without awareness that the unit was deed restricted.
3. Appeals Procedure. An Applicant aggrieved by a decision of the Town Manager with regards to a request for removal of a unit from the Resident Occupancy (RO) restrictions may appeal such decision to the Town Council to be considered at a duly noticed public hearing in which notice is to be provided by mailing of notice to the Applicant at least 15 days prior to the public hearing date. The Town Council may consider among other items, the requirements set forth above for review by the Town Manager.