

# Exhibit “A”

## TOWN OF BASALT

# COMMUNITY HOUSING GUIDELINES



Revised October, 2009

These Community Housing Guidelines shall remain in effect until such time as new or amended Guidelines are approved by the Town Council of the Town of Basalt.

## **PURPOSE**

Basalt is located in a unique and highly desirable valley. The Town of Basalt recognizes that having a supply of Community Housing attainable by households earning lower and median incomes in the Town of Basalt 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 of Basalt 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 of Basalt currently reflects a mix of socio-economic 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.

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 to enhance the livability of the town. The goal of these regulations is to require new development to provide community housing attainable by persons working in the Mid valley and having lower and median incomes paying not more than 28-36 percent of their household income for total housing expense, including debt service, homeowner's insurance, real estate taxes, association dues, land lease if any, and utilities.

The Town of Basalt should not lose ground on the existing level of community housing available in and around Basalt. This means: All new residential developments will integrate community housing into the development or, if integration is impractical, provide meaningful community housing in or near Basalt; methods will be developed to maintain the affordability of existing housing in Basalt; non-residential projects will mitigate for impacts they create for community housing; and existing community housing will not be lost through displacement or demolition.

Community housing should be disbursed throughout the community and, where possible, integrated into the existing community fabric. The Town encourages community participation in solving and benefiting from solutions to the community housing concerns.

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/Employee Dwelling Unit Program.

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.

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.

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.

The Town will support creative housing solutions, including projects that include sweat equity by those benefiting from the community housing.

The Town Council finds that an adequate supply of community housing in the Town is essential and necessary to preserve and maintain the health, welfare, safety, and quality of life for residents of the Town.

**1. Stability of Economy.** An adequate supply of housing that is affordable to the local labor force is necessary for the local economy to remain stable and to grow in a healthy manner.

**2. Increased Demand for Community Housing.** New development creates demand for workers in construction, maintenance, services and retail sales, increasing the demand for community housing.

**3. Mitigation of Impact by New Development.** New development shall be required to provide community housing which mitigates the impacts that are attributable to such development in areas designated by the Town, where community housing has become limited and problematic for adequate workforce housing.

The purpose of these Community Housing Guidelines is to ensure that the housing needs of all economic segments of the community will be met.

**1. Implementation of Comprehensive Plan Goals and Objectives.**

The Housing Goals, Objectives, Policies and Programs of the Town's Master Plan shall be implemented through the community housing unit requirements set forth herein.

**2. Mitigation of Housing Impacts by New Development.** New development shall be required to contribute to the community housing supply in the Town, as reasonable and appropriate with consideration to the development's impact on the supply of community housing available to the local labor force.

## POLICY STATEMENTS

The purpose of this section is to assist the staff, the development community and the public in understanding the Town's philosophy regarding various aspects of the program. These policy statements will be reviewed and revised by the Town Council as needed.

- A. Mitigating Community Housing Impacts: The following list establishes the Town's options in order of preference depending on the site location.
  - 1. On-site housing or off-site housing in the Urban Growth Boundary (UGB) in circumstances where the Town Council determines that off-site housing is more appropriate;
  - 2. Off-site housing in the UGB, including buydown units; and
  - 3. Cash-in-lieu for up to 500 square feet of required commercial mitigation or inclusionary housing.
  
- B. Unit types: In areas where developers wish direction regarding the types of unit to construct, the Town would like to see the following:
  - 1. Family-oriented units; and
  - 2. Entry level units; and
  
- C. Community housing offered as mitigation shall provide for a balanced range of categories and, where possible, a diversity of unit types.

## PART I. COMMUNITY HOUSING CATEGORIES

**A. Area Median Income (AMI) Categories Required.** The average price for all community housing sale units to be provided shall be dispersed over a range of unit prices affordable to individuals and households making below 150% of Basalt's AMI. Community Housing rental units also may be developed to satisfy commercial mitigation or inclusionary housing requirements as established in Article XIX of the Town Code. Applicants shall provide housing in the following three categories, in accordance with the distribution described below:

**Category 1-** Only those households earning between 60% to 80% of the Area Median Income (AMI) for Basalt (as defined in the definitions section of these guidelines), may qualify to purchase or rent a community housing unit which has been priced based on Category 1 AMI levels. Units developed and deed restricted as Category 1 units shall meet the following requirements:

1. For-sale units shall not have a maximum initial sales price greater than would be affordable for individuals or households making 70% of Basalt's AMI using the pricing methodology established in Section 1(B) and 1(C); and,
2. Rental units shall meet the maximum rent requirements set forth in Table II, Section 8(B) of these guidelines; and,
3. When built in combination with other community housing in a development, all of the community housing units shall meet the maximum average pricing requirements established in Town Code Section 16-416(b), *Residential Inclusionary Requirements* and Town Code Section 16-417(c), *Commercial Linkage Requirements*.

**Category 2-** Only those households earning between 81% to 120% of the Area Median Income (AMI) for Basalt (as defined in the definitions section of these guidelines), may qualify to purchase or rent a community housing unit which has been priced based on Category 2 AMI levels. Units developed and deed restricted as Category 2 units shall meet the following requirements:

1. For-sale units shall not have a maximum initial sales price greater than would be affordable for individuals or households making 100% of Basalt's AMI using the pricing methodology established in Section 1(B) and 1(C); and,
2. Rental units shall meet the maximum rent requirements set forth in Table II, Section 8(B) of these guidelines; and,
3. When built in combination with other community housing in a development, all of the community housing units shall meet the maximum average pricing requirements established in Town Code Section 16-416(b), *Residential Inclusionary Requirements* and Town Code Section 16-417(c), *Commercial Linkage Requirements*.

**Category 3-** Only those households earning between 121% to 150% of the Area Median Income (AMI) for Basalt (as defined in the definitions section of these guidelines), may qualify to purchase or rent a community housing unit which has been priced based on Category 3 AMI levels. Units developed and deed restricted as Category 3 units shall meet the following requirements:

1. For-sale units shall not have a maximum initial sales price greater than would be affordable for individuals or households making 135% of Basalt's AMI using the pricing methodology established in Section 1(B) and 1(C); and,

2. Rental units shall meet the maximum rent requirements set forth in Table II, Section 8(B) of these guidelines; and,
3. When built in combination with other community housing in a development, all of the community housing units shall meet the maximum average pricing requirements established in Town Code Section 16-416(b), *Residential Inclusionary Requirements* and Town Code Section 16-417(c), *Commercial Linkage Requirements*.

Households or individuals may rent or purchase a category level unit priced to be affordable for an individual or household in a higher income category, as follows:

If a for-sale, category-level unit has been advertised for sale for more than six (6) months after the issuance of a Certificate of Occupancy and the unit has been offered for sale during said six (6) month period, the owner may request that the Special Housing Evaluation Committee allow for the unit to be purchased by an individual or household in the next highest income category than that to which the unit is deed restricted. However, a Category 3 unit may not be purchased by an individual or household whose income and assets exceeds the income and assets permitted for ownership of a Category 3 unit. The Special Housing Evaluation Committee may approve or deny a request by the owner to allow the unit to be purchased by an individual or household in a higher income category than the unit is deed restricted upon considering the number of showings, the overall market trends; and the amount of other available inventory in the price range which the unit is deed restricted.

**B. Calculation of Initial Sales Prices.** In addition to the price thresholds established in Section A above, the initial sales price of a community housing unit shall be calculated by the Town based on a ninety-five (95) percent loan to value, 30-year mortgage based on a 6% fixed interest rate, with 20% of the housing payment for property insurance taxes, and HOA dues. The price shall include a landscaped lot and the unit shall be of comparable quality with similar fixtures (e.g. dishwashers, disposals, and energy efficient windows) to market rate units.

The initial sales price will be calculated by the Town 120-days prior to the anticipated date of a Final Certificate of Occupancy for the unit.

**C. Number of persons by bedroom configuration used to establish sales price:**

<b>Number of bedrooms, Non-detached structure</b>	<b>AMI Household Size for Initial Sales Price Determination</b>
Studio	1 person household

1	2 persons per household
2	2.5 persons per household
3	3 persons per household
4	3.5 persons per household

<b>Number of bedrooms, Detached Single-Family Structure</b>	<b>AMI Household Size for Initial Sales Price Determination</b>
2	2.5 persons per household
3	3 persons per household
4	3.5 persons per household

**Community Housing Units that are ownership units shall have a minimum occupancy of one individual per bedroom for studios, 1-bedroom, and 2-bedroom units or three (3) individuals if the unit is three (3) bedrooms or larger.**

#### **D. Rental Community Housing**

Rental Community Housing Units may be developed to mitigate for new commercial development or to satisfy inclusionary housing requirements as set forth in Article XIX, Chapter 16 of the Town Code. To qualify to rent a rental community housing unit, an individual must meet the qualifications established in Part II, Section 1 of these Guidelines and furnish the Town with the documents required in Part II, Section 2 of these guidelines. Generally, developers of rental community housing shall have the ability to select the renter of the units as long as the prospective renters are employed full-time in Basalt or the Basalt Employment Area and meet all of the occupancy, income, and asset requirements established in Part 1 of these guidelines. All prospective renters must be qualified by the Town prior to occupying a rental unit.

Only one person of a family must meet the employment requirements established herein to qualify to rent a community housing unit, but all of the family members' income and assets that are going to occupy the community housing unit shall be used to determine if the family qualifies based on the income and asset restrictions set forth herein.

In rental community housing units, a minimum occupancy of one qualified individual per bedroom must be met; however, if the owner or property manager of a rental unit has advertised a vacant unit for over one month and made a good faith effort to lease the unit during this period, minimum occupancy requirements may be waived at the discretion of the Town. At such time as the rental unit again becomes vacant without successfully leasing it, the owner is again subject the minimum occupancy requirements. The Town may conduct random audits and investigate complaints or reports of non-compliance on an ongoing basis. The maximum occupancy in a rental unit shall be as set forth in Town Code Section 16-203, *Renting of Rooms*. In the case of an audit, owners of rental units must provide all reasonably requested information to the Town.

Minimum lease terms for renting a unit shall be six (6) months. Maximum lease terms for renting a community housing unit shall be one year. After the lease expires, occupants must re-qualify with the Town based on the employment, income, assets, occupancy, and other restrictions of these guidelines in order to continue to occupy the unit.

To ensure that the Town may administer rental units, in addition to the standard deed restriction described in these guidelines, developers constructing rental community housing units must file all necessary documents for Conveyance of an interest in the rental property, or other transaction(s) deemed necessary by the Town, to ensure that the rental units do not violate the prohibition of C.R.S. 38-12-301.

Table I below sets forth the maximum monthly rents that can be charged for newly deed restricted community housing units on the effective date of these guidelines. The maximum monthly rent of a unit shall be controlled by the Deed Restriction covering the unit executed by the initial developer.

**TABLE I  
Maximum Monthly Rents**

Unit Type	Studio	1-Bedroom	2-Bedroom	3-Bedroom
Category 1	\$768	\$877	\$932	\$986
Category 2	\$928	\$1,060	\$1,126	\$1,192
Category 3	\$1,088	\$1,243	\$1,320	\$1,398

1. Units will be offered for rent to all qualified persons under the procedures established by the guidelines. The maximum rents shall be allowed to increase by a 3% simple annual increase or the percent of increase in Consumer Price Index (CPI) over the previous 12-month period, whichever is less. The maximum rents do not include utilities, trash, telephone, cable television charges, or snow removal.
  
2. All newly deed restricted community housing rental units must be in a marketable condition and comply with the Town’s adopted building code and with all rules, regulations, and codes of all governmental utilities and agencies having jurisdiction at the commencement of the lease term. Prior to rental at the beginning of each lease, the unit must be inspected and approved by a certified building inspector, architect or engineer approved by the Town for compliance with the Guidelines. Cost of such inspections shall be the responsibility of the applicant, and the results of such inspection must be approved by the Town.
  
3. Rental community housing units developed to mitigate for commercial development shall have an aggregate average rent and size that does not exceed the average between the

maximum 1-bedroom and the maximum 2-bedroom unit rents and sizes, while still complying with the maximum rents for the individual units by unit type

**NOTE:** A household may qualify to purchase a unit in a higher category.

#### **E. Maximum Asset Limitations.**

To qualify to purchase a community housing unit, an individual or household shall have a cumulative net worth, minus qualified retirement assets (as determined by the IRS), not in excess of 150% of the purchase price of the unit they are applying to purchase in addition to satisfying the income criteria set forth herein.

Individuals or households applying to rent a community housing rental unit shall be subject to asset limitations, and shall be required to be within the income ranges set forth herein.

#### **F. Homeowner's Association (HOA) Dues and General Assessments**

HOA dues and general assessments for deed restricted units located in a condominium or subdivision which also includes free market units shall, at a maximum, be proportional to the dues and general assessments paid by the most similar type of market rate units in the same development based on assessed value per square foot, provided, however, that in no case shall the dues or assessments of a community housing unit be less than 40% or more than 80% of the dues and general assessments paid by the same or similar types of market rate units in the same development.

The assessed value per square foot to be used in the determination of such dues and assessments shall be the lowest assessed value per square foot of any free-market residence in a development and the lowest assessed value per square of any community housing unit within the same development. The dues and general assessments shall be calculated based on the following equation:

Lowest assessed value per square foot of any community housing unit of the most similar type of unit in a development divided by the lowest assessed value per square foot of any market rate dwelling unit in the same development = Community Housing Unit Percentage of Assessed Value per Square foot of Market Rate Units

If the Community Housing Unit Percentage of Assessed Value per Square Foot of Market Rate Units is between 40% and 80%, then Community Housing Units shall pay HOA dues and general assessments equal to the percentage of assessed value per square foot of the market rate units.

By way of example, if a development has a Community Housing Unit Percentage of Assessed Value per Square Foot of Market Rate Units of 35%, the Community Housing Units in the

development shall be required to pay 40% of the HOA dues and general assessments of the market rate units in the same development.

A deed restricted community housing unit shall also have equal voting rights to a similarly sized market rate unit within the same association and there shall be at least one Community Housing Unit owner on the HOA Board for projects containing both free-market and Community Housing Units.

The Town Council, at its sole discretion, may impose more restrictive provisions or different HOA approval provisions regulating assessments as necessary to maintain the continuous affordability of community housing units. In buy-down situations where a developer is buying down a free-market unit to a Community Housing Unit to satisfy mitigation or inclusionary housing requirements, the Town will review HOA dues and assessments and may require the developer to place money in an escrow account or require the developer to provide some other mechanism to help subsidize the HOA dues and assessments for the buy-down Community Housing Unit to affordable levels.

#### G. Special Assessments

Special assessments for deed restricted units located in a condominium or subdivision which also includes free market units shall, at a maximum, be proportional to the special assessments paid by the market rate units in the same development based on Community Housing Unit Percentage of Assessed Value per Square Foot of Market Rate Units as defined in Section F above. The maximum and minimum percentages defined in Section F above shall also apply to special assessments.

A deed restricted community housing unit shall have equal voting rights to a similarly sized market rate unit within the same association with regard to matters related to general and special assessments. The Town, through land use reviews on a case by case basis, may at its sole discretion require more restrictive provisions or different approval provisions that meet the objectives of the limits outlined above be included in a development's approval documents to limit HOA dues and assessments with the intent of maintaining the affordability of the deed restricted community housing units. The Town must also review and approve covenants to ensure that there are provisions in the covenants exempting community housing units from the payment of assessments for luxury items such as common pools, spas, and athletic facilities and exempting community housing units from payment of HOA dues and assessments related the commercial uses in a mixed use development.

#### H. Capital Improvement Funds

In order to avoid high special assessments for Community Housing Units, the Town through the development review process will require provisions as deemed necessary in initial covenants to ensure that a sufficient capital improvement fund is established for developments containing community housing units.

## **PART II.**

## PURCHASING OR SELLING COMMUNITY HOUSING

### SECTION 1 QUALIFICATIONS TO OCCUPY COMMUNITY HOUSING

In some circumstances, the deed restriction for an community housing unit requires owner occupancy, in which case, these qualifications are for such owner/occupier. In other circumstances, the deed restriction for a community housing unit allows employer ownership for occupancy by an employee, in which case, these qualifications apply to such employee/occupier. To initially qualify for and be eligible to *occupy* a community housing unit, a person must meet all of the following criteria:

- A. A qualified person must be a full-time employee working in the Roaring Fork Valley employed at a location or for a business with its principal office located in the employment area as defined in Part II, Section 4(A)(5) of these Guidelines, a retired person who has been a full-time employee in the Employment Area a minimum of ten years immediately prior to his or her retirement, or a disabled person who has been a full-time employee in the Employment Area a minimum of two years immediately prior to their disability (as defined in the Definitions); or the spouse or dependent of any such qualified employee, retired person, or disabled person.

Three (3) years of the ten year employment period for a retiree to obtain a unit may consist of volunteering for a 501(C)(3) non-profit entity at least 1,000 hours per year. Also a retiree must not retire before the age of 65 to obtain a community housing unit. Individuals and households that retire while they own a community housing unit shall be required to have been occupying a Basalt Community Housing unit for at least 10 years prior to retiring at age 65 or older to maintain occupancy of the unit upon retirement. Retiring individuals or households not meeting the above requirements will be required to sell their community housing unit upon retiring. Newly retiring individuals or households that were not living in a Basalt Community Housing Unit upon retiring are not eligible for a community housing unit even if they meet the requirements set forth in this paragraph.

- B. A qualified person, upon purchase of the unit, shall occupy the unit as their primary residence. The owner shall be deemed to have ceased to use the unit as his or her sole and exclusive place of residence by accepting permanent employment outside of the Employment Area, or residing in the unit fewer than nine (9) months out of any twelve (12) months.
- C. A qualified person must not own developed residential real estate or a mobile home in those portions of Eagle, Garfield, Gunnison or Pitkin Counties which are part of the Roaring Fork River drainage, or must list for sale, at competitive market prices, the residential real estate or mobile home prior to or simultaneously with closing on the community housing unit. If the property is not sold by the time of closing on purchase of the community housing unit, it must remain listed until sold. If the owner of the other residential property desires to rent that property prior to sale, the owner shall be required to rent such property as community housing in accordance with the Guidelines at the income category determined by the Town to

be appropriate under the circumstances. If an individual owns vacant land in those portions of Eagle, Garfield, Gunnison or Pitkin Counties, which are part of the Roaring Fork River drainage, while owning a community housing unit, as soon as the land is improved with a residence the individual must relinquish the community housing unit by listing and selling the ownership interest in that unit.

- D. A qualified person must have total current household income no greater than the maximum amount specified in Part I above for the particular category housing.
- E. Any individual or household who is under review for a possible non-compliance issue may not be qualified to purchase or rent community housing units, until the non-compliance issue has been satisfied. The owner **MUST** also be in good standing with their homeowners' association and a notarized document from the HOA will be required at the time of application.

## SECTION 2 HOW TO QUALIFY FOR COMMUNITY HOUSING

**A. INITIAL QUALIFICATION:** In order to determine that a person or household desiring to purchase an community housing unit meets all of the criteria set forth in Section 1 above, the Town or its administrative assignee shall request any combination, or all, of the following documentation as proof of residency, income, and employment (*all information and documentation is confidential*):

1. Federal income tax returns for the last two years. Prospective purchasers must also furnish a current income statement and a current financial statement, in a form acceptable to the Town, verified by applicant to be true and correct; or other documentation acceptable to the Town. When current income is twenty percent (20%) more or less than income reported on tax returns, the applicant's income will be averaged based upon current income and the previous year's tax returns to establish an income category for the purpose of purchasing a unit.
2. Verification of employment in the Employment Area (i.e., wage stubs, employer name, address, and phone number, plus evidence of legal residency [or I.N.S. Form I-9, Employment Eligibility Verification] or other appropriate documentation as requested by the Town).
3. Verification of residency and physical address.
4. Copy of valid Colorado Driver's License.
5. Verification of telephone service (date of installation, person listed to).
6. Vehicle registration and/or voter registration.
7. Any other documentation which the Town deems necessary to make a determination.
8. The applicant desiring to purchase a unit will be required to sign a release so that the Town can obtain a copy of the completed loan application submitted to any prospective lender. An applicant shall prequalify for financing which shall not exceed the price of the community housing unit they are applying to purchase. A prequalification for financing letter shall be submitted to the Town to qualify to purchase a community housing unit. If an owner of a Community Housing Unit is refinancing, the owner shall also notify the Town and provide proof that the amount of the refinance loan does not exceed the allowable resell price of the unit.

9. If you have been divorced and you receive any sort of alimony or child support, a copy of the divorce Decree must indicate that it has been entered of record and all exhibits and supplements must be attached.

### **SECTION 3 QUALIFICATIONS TO RESIDE IN COMMUNITY HOUSING**

A. To **REMAIN ELIGIBLE** to reside in an community housing unit, a person must meet the requirements of Part II, Section 1, A, B and C. The status of Renters/Tenants of Community Housing Units will be reviewed and verified by the Town every two years or more often at the sole discretion of the Town to ensure that they continue to meet the requirements of the Guidelines, including but not limited to: Minimum Occupancy, Income and Asset Limitation, Property Ownership, and Employment. The Town or the Town's designee will notify the landlord to provide the tenant written notice of the requalification at least thirty (30) days prior to the expiration of the two years. The landlord shall disclose in the lease that the tenants must requalify every two years. Individuals that rent a Community Housing Unit must requalify and meet the employment, occupancy, income, asset, and other requirements specified herein upon expiration of their lease.

Individuals that own Community Housing Units must 1) remain a qualified employee or retiree, 2) continue to occupy the unit as their primary residence as defined in these Guidelines, and 3) not own any other residential property within the Roaring Fork Valley as defined in these Guidelines. The Town or the Town's housing designee will require all owners to complete and sign a Requalification Affidavit on a bi-yearly basis. The Town Manager may waive the employment requirement on a temporary basis for an owner or renter who fails to satisfy the employment requirement upon requalification, subject to the satisfying the following criteria:

1. The individual demonstrates that they are actively pursuing employment in the employment area established in Part II, Section 4(A)(5); and,
2. The duration of the exemption from the employment requirement shall not exceed six (6) months.

### **SECTION 4 PROCEDURES FOR SALE AND PURCHASE OF AN COMMUNITY HOUSING UNIT**

#### **A. LISTING UNIT FOR SALE**

1. An owner of an community housing unit desiring to sell should consult with the Town and review the Deed Restriction covering the unit to determine the maximum sales price permitted and other applicable provisions concerning a sale. Unless otherwise provided in the Deed Restriction, the unit may be listed for sale with a local real estate sales office

or may be sold by the owner. The Town may keep a list of persons who have qualified for ownership; however, if the Town provides any such names, the Town shall only do so as an accommodation and shall not act as a real estate broker.

2. Units that are developed to satisfy inclusionary housing requirements shall be sold through the Town lottery process established in Part II, Section 4(A)(5) below. Units developed to satisfy commercial mitigation requirements will be marketed and initially sold by the developer to individuals and families that qualify under the provisions established in these Guidelines. The developer of commercial mitigation units may elect to sell commercial mitigation units through the Town lottery process. All potential occupants of Community Housing Units shall be qualified in advance of occupancy by the Town subject to the provisions of these Guidelines. Community Housing Units developed in excess of commercial mitigation and inclusionary housing requirements may be sold by the developer without using a lottery unless the developer chooses for the units to be sold by the Town through the lottery process.
3. In pursuit of the above, the Town staff will be acting on behalf of the Town. It should be clearly understood by and among all parties to a sales transaction that the Town staff members are not acting as representatives or agents to the transaction, but as representatives of the Town and its interest in community housing.
4. All purchasers and sellers are advised to consult legal counsel regarding examination of title and all contracts, agreements and title documents. The retention of such counsel, licensed real estate brokers, or such related services, shall be at purchaser's or seller's own expense. Any fees paid to the Town are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.
5. The Town will conduct a lottery for each applicable community housing unit or group of units pursuant to Part II, Section 4(A)(2) of these guidelines and resales of all community housing units. No waiting list will be maintained and a new and separate application must be submitted for each newly available unit or group of units.

To assure the Occupancy Priorities designated in Section 5, Part II are used, the Town shall conduct the Lottery for available community housing units as follows:

- i. The Lottery shall include all applications, which are submitted and complete as of the date designated by the Town.
- ii. All complete applications, which fall into Occupancy Priority One, shall be included in Lottery Round One. Lottery applicants in Round One that have lived continuously in the Roaring Fork Valley between Aspen and Glenwood Springs (inclusive of the Town limits of Aspen and Glenwood Springs) for more than five (5) years directly prior to applying for the lottery shall get two (2) opportunities in the random drawing; lottery applicants that have lived in the Roaring Fork Valley between

Aspen and Glenwood Springs (inclusive of the Town limits) for five (5) years or less shall get one opportunity in the random drawing. Each application, upon being drawn by random selection, shall be assigned a numerical position based upon the order drawn.

iii. Following the random drawing and assignment of a numerical position for the applications in Occupancy Priority One in the Lottery Round One, a separate Lottery Round Two, shall be conducted in a similar manner for applications in Occupancy Priority Two. The same lottery process will be conducted for Occupancy Priorities Three and Four. A numerical position shall be assigned to each application based upon order drawn in each Lottery Round.

iv. Available community housing units and the first choice of an available unit will be offered to the qualified applicant first drawn in Lottery Round One. Subsequent offers will be made to other qualified applicants in the order drawn in Lottery Round One.

v. Remaining community housing units, if any, will be offered to Applicants in the order drawn in Lottery Rounds Two, Three, and Four in sequence following those in Lottery Round One.

vi. The Town shall determine the length of time an offer of a community housing unit shall be available to an Applicant before the offer is considered withdrawn or void. If an offer is not accepted by a ready and willing Applicant within a designated time, the offer shall be considered withdrawn and an offer to the next sequential qualified Applicant, based upon the Lottery, shall be made.

**B. DEED RESTRICTION:** The purchaser must execute, in a form satisfactory to the Town and for recording with the County Clerk and Recorder concurrent with the closing of the sale, a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction covering the sale unit.

**C. ADDITIONAL INFORMATION:**

1. Any co-ownership interest other than joint tenancy or tenancy-in-common must be approved by the Town.
2. Co-signers of debt recorded against a unit may be approved for ownership of the unit but shall not occupy the unit unless qualified by the Town for occupancy.
3. If a unit is listed for sale and the owner must relocate to another area, the unit may, upon approval of the Town, be rented to a qualified individual, at the owner's cost as defined in Section 5 below for a maximum period of two (2) years. A letter must be sent to the Town requesting permission to rent the unit until sold. A minimum six (6) month written lease must be provided to the tenant with a sixty (60) day move out clause upon

notification when the unit is sold. All tenants must be qualified by the Town and the unit must be leased for the terms set forth in the Deed Restriction on the unit or, if there are no such provisions in the Deed Restriction, upon terms approved by the Town. Prior to the Town's qualification of a tenant, said tenant shall acknowledge as part of the lease that said tenant has received, read and understands any existing homeowners' association covenants, rules and regulations for the unit and shall abide by them. Enforcement of said covenants, rules and regulations shall be the responsibility of the homeowners' association. A copy of the executed lease shall be furnished by the owner or tenant to the Town.

## SECTION 5 OCCUPANCY PRIORITIES

All complete applications will be assigned by the Town to one of following four Occupancy Priorities:

**1. Occupancy Priority One:** A prospective occupant that is an essential employee as defined herein, working full-time in the Town of Basalt;

**2. Occupancy Priority Two:** A prospective occupant that is a non-essential employee working full-time in the Town of Basalt or mobile home park resident living in the floodplain.

A mobile home park resident living in the floodplain shall mean an employee with a job or principal office from Aspen to Glenwood Springs that as of December 1, 2007 lived in one of the mobile homes to be removed because of floodplain concerns identified in the 2002 River Stewardship Plan. In order to qualify under the mobile home park provision in Priority Two, the prospective occupant must demonstrate to the satisfaction of the Town that the mobile home they lived in has been permanently removed from the floodplain and not replaced with another unit in the floodplain;

**3. Occupancy Priority Three:** A prospective occupant that is an essential employee as defined herein, working full-time in Eagle or Pitkin Counties in the Roaring Fork River Valley;

**4. Occupancy Priority Four:** A prospective occupant that is an employee in the employee working full-time in Eagle or Pitkin Counties in the Roaring Fork River Valley.

The occupancy priorities and requirements may be waived by the Town Council through a one-step Special Housing Review for replacement housing or projects consisting of 100% community housing. Also, consideration may be given by the Town for other funding entities such as Eagle and Pitkin Counties or private employers that are funding community housing projects that include units beyond the number of units necessary to satisfy inclusionary housing requirements or units being developed for dedication to the Town.

All completed and verified eligible applications shall be placed in the Lottery for community housing.

**SECTION 6  
LEAVE OF ABSENCE FOR OWNERS OF  
COMMUNITY HOUSING UNITS**

If an owner of an community housing unit must leave the Employment Area for a limited period of time and desires to rent the unit during their absence, a leave of absence may be granted by the Town for one year upon clear and convincing evidence which shows a bona fide reason for leaving and a commitment to return to the area. A letter must be sent to the Town, at least 30 days prior to leaving, requesting permission to rent the unit during the leave of absence. Notice of such intent to rent and the ability to comment shall be provided to any applicable homeowners' association at the time of request to the Town. The leave of absence shall be for one year and may, at the discretion of the Town, be extended for one year, but in no event shall the leave exceed two years. The rent shall be the owner's cost. Owner's cost as used herein includes the monthly mortgage principal and interest payment, plus owners' association fees, plus utilities remaining in owner's name, plus taxes and insurance prorated on a monthly basis, plus land lease costs if any, plus \$20 per month.

The owner shall rent to an employee/qualified resident that meets the provisions of Part II, Section 1, A, B and C. Prior to the Town's qualification of tenant, said tenant shall acknowledge as part of the lease that said tenant has received, read and understands the homeowners' association covenants, rules and regulations for the unit and shall abide by them. Enforcement of said covenants, rules and regulations shall be the responsibility of the homeowners' association. A copy of the executed lease shall be furnished by the owner or tenant to the Town. Additionally, an owner may request a one-time leave of absence for one (1) year by Special Housing Review with all the above conditions applying.

**SECTION 7  
SPECIAL HOUSING REVIEW**

A Special Housing Review for a variance from the strict application of these Guidelines may be requested if an unusual hardship can be shown, and the variance from the strict application of the Guidelines is consistent with the Community Housing goals, purpose and policy. In order to request a Special Housing Review, a letter must be submitted to the Town stating the request, with documentation regarding the unusual hardship. The applicant shall submit any additional information reasonably requested by the Town. A Special Housing Review meeting will then be scheduled in a timely manner. The Special Housing Evaluation Committee may grant the request, with or without conditions, if the approval will not cause a substantial detriment to the public good and without substantially impairing the goals and purpose of the Guidelines, and if an unusual hardship is shown.

**PART III.**

**INFORMATION FOR DEVELOPMENT OF  
COMMUNITY HOUSING**

Part III of the Guidelines contains information to be used by developers of community housing units in the Town of Basalt whether required in connection with an application for free-market development or otherwise.

**SECTION 1**

**MINIMUM SQUARE FOOTAGE FOR  
NEWLY DEED RESTRICTED COMMUNITY HOUSING UNITS**

Table II below sets forth the allowable size range for each unit type and category. The minimum and maximum square footage requirements may be reduced or increased upon approval by the Town Council based on a finding that the development satisfies, or is required to adjust to, other physical factors or considerations including, but not limited to, design for livability, common storage, other amenities, location or site designs.

**TABLE II**

**UNIT SIZE RANGE FOR EACH UNIT TYPE AND INCOME CATEGORY**

<u>Unit Type</u>	<u>Categories 1 &amp; 2 Square Feet</u>	<u>Category 3 Square Feet</u>
Studio	415-800	500-885
1 Bedroom	580-965	690-995
2 Bedroom	750-1,135	900-1,285
3 Bedroom	1,000-1,385	1,200-1,585
Single-Family Detached	1,100-1,700	1,400-2,000

The average size of all Category-level Community Housing Units developed in any one development project shall be a minimum of 950 square feet. Square footage calculations shall be required for the community housing component of a project and must be verified by the Building Department prior to issuance of any building permits for either the free market or community housing component of the project. The Building Department shall retain a set of approved building permit drawings for the project and the Building Department or Town may check the actual construction of the community housing units for compliance with the approved building permit plans.

**SECTION 2**  
**MAXIMUM SALES PRICES FOR NEWLY DEED RESTRICTED**  
**COMMUNITY HOUSING UNITS AND FOR COMMUNITY LOTS**

The maximum initial sales price for newly deed restricted community housing units shall be as established in Part I, Subsections A, B, and C of these guidelines. The maximum allowable annual appreciation for a community housing unit shall be the lesser of CPI or 3%.

Resident occupied (RO) units may not be used to satisfy inclusionary housing or commercial mitigation requirements but may be used to reduce the inclusionary housing requirements as described in Town Code Section 16-416, Residential Inclusionary Requirements. For units developed as RO to reduce inclusionary housing requirements, newly developed multi-family RO units shall have an initial sales price not to exceed \$500,000 and newly developed single-family RO units shall have an initial sales cap not to exceed a sales price not to exceed \$900,000. The initial sales price cap on these RO units shall increase annually by 3% simple annual increase or the percent of increase in Consumer Price Index (CPI) over the previous 12-month period, whichever is less. RO unit owners shall be required to live in their unit 9 months out of the calendar year and shall have a simple annual appreciation cap of 5%.

**NOTES:**

1. Units will be offered for sale to all qualified persons under the procedures established by the Guidelines.
2. All newly deed restricted community housing sales units must be in a marketable condition and comply with the Town's adopted Building Code and with all rules, regulations, and codes of all governmental utilities and agencies having jurisdiction. Prior to sale the unit must be inspected and approved by a certified building inspector, architect or engineer approved by the Town for compliance with the Guidelines. Cost of such inspections shall be the responsibility of the applicant, and the results of such inspection must be approved by the Town.

**SECTION 3**  
**COMMUNITY HOUSING DEDICATION FEE (Payment-In-Lieu Fee)**

**Payment-In-Lieu Schedule**

- A. Pursuant to the applicable Town Code, an applicant for a development may, under certain conditions and subject to certain requirements, satisfy an community housing requirement by payment of an community housing dedication fee (payment-in-lieu fee). The number of employees (community housing residents) required to be housed is determined by the Town

Code. The time of payment of the fee is prior to the issuance of a building permit for any aspect of the development.

- B. All fees shall be paid to the Town Finance Director. A receipt shall be issued by the Finance Director to the applicant for submission to the Building Department as verification of payment.

**Table III  
Payment-in-lieu Schedule**

Category 1	\$329.02 per square foot of Community Housing Requirements
Category 2	\$232.55 per square foot of Community Housing Requirements
Category 3	\$176.88 per square foot of Community Housing Requirements

**Methodology  
Payment-in-lieu<sup>1</sup> schedule**

The payment-in-lieu schedule is based on the methodology established in the 2009 Town of Basalt Community Housing-Strategy Support Study. In calculating the fee-in-lieu of community housing that is required by the requirements established in the Town Code, an Applicant shall use the payment-in-lieu schedule per Category included in Table III above. As is described in Town Code Section 16-416, *Residential Inclusionary Requirements*, to pay cash-in-lieu to satisfy inclusionary housing requirements, the average between the Category 2 and the Category 3 payment in Table III shall be used in calculating the payment-in-lieu. As is described in Section 16-417, *Commercial Linkage Requirements*, to pay cash-in-lieu to satisfy commercial linkage requirements, the Category 2 payment in Table II shall be used in calculating the payment-in-lieu.

**SECTION 4  
CONVEYANCE OF VACANT LOTS**

Pursuant to the Town Code, an applicant for a development, under certain conditions and subject to certain requirements, may satisfy the community housing requirement by the conveyance of vacant lots. Acceptance of the lots shall be at the sole discretion of the Town Council.

- A. All lots must be fully developed and ready for construction, i.e., improved lots with water, sewer, roads, telephone, electricity and gas (if available) in place to the property line. A soils report, prepared by a qualified engineer and based upon test holes within the building envelope of each lot, stipulating that the lot is suitable for construction of the intended dwelling type without requiring unusual excavation, foundation work or accommodation of

other unusual conditions such as hydro-compactive soils or sink holes shall accompany the conveyance.

- B. All lots shall be conveyed to the Town concurrent with recordation of final plat for the project.
- C. At the time of conveyance, the developer shall establish an escrow account in an amount sufficient to cover 125% of the estimated costs required to complete the improvement of the lots in accordance with Item A above. Improvements as noted in Item A above, shall be completed within one year from the date of conveyance of the property to the Town.
- D. The Subdivision Improvements Agreement and the Protective Covenants shall incorporate the conditions stated in subsections A, B and C above.

## **SECTION 5 DEED RESTRICTING EXISTING DWELLING UNITS**

- A. Pursuant to the Town Code, an applicant for a development, under certain conditions and subject to certain requirements, may satisfy the community housing requirement by deed restricting existing unrestricted housing to comply with the Guidelines. Acceptance of existing units shall be at the sole discretion of the Town Council.
- B. If accepted by the Town, existing units must be upgraded in accordance with the following criteria, unless a variance from these requirements is approved by the Town Council: all units must be freshly painted; all appliances must be purchased within the last five years and be in good condition and working order; new carpet shall be provided (unless carpet has been purchased in last five years and is in good condition and repair); the exterior walls shall be freshly painted within one year of dedication; a general level of upgrade to yards and landscaping shall be provided; and windows, heating, plumbing and electrical systems, fixtures and equipment shall be in good condition and working order. The roof must have a remaining useful life of at least ten (10) years. All units shall meet the minimum standards of the Town's adopted building code and the condition of all units shall be verified by the Town Building Inspector. Applicant shall provide a Building Inspection Report by a qualified building inspector approved by the Town describing the condition, at a minimum, of all of the above items. Applicant shall bear the costs and expenses of any required upgrades to meet the above standards as well as any structural/engineering reports required by the Town to assess the suitability for occupancy and compliance with the Town standards of the proposed units.

**SECTION 6  
EXECUTION OF DEED RESTRICTIONS BY APPLICANTS**

Deed Restrictions must be submitted by the applicant to the Town, which shall have an approved, executed and recorded Deed Restriction for the required commitment by the applicant prior to issuance of any building permit for the project. Prior to issuance of any Certificate of Occupancy, the Deed Restriction shall be amended, if necessary, to reflect changes approved by the Town which may have occurred during construction or conversion of the unit(s) (i.e., net livable square footage), executed and recorded.

**PART IV.  
GRIEVANCE PROCEDURES**

A grievance is any dispute that a unit owner or purchaser may have with the Town with respect to action or failure to act in accordance with the individual's rights, duties, welfare or status. A grievance may be presented to the Town's Special Housing Evaluation Committee under the following procedures.

**SECTION 1  
FILING A GRIEVANCE**

A. Any grievance must be presented in writing to the Town. It may be simply stated, but shall specify: (1) the particular ground(s) upon which it is based; (2) the action requested; and (3) the name, address, telephone number of the complainant and similar information about his or her representative, if any.

B. Upon presentation of a written grievance, a hearing before the Special Housing Evaluation Committee shall be scheduled as soon as reasonably practicable. The matter may be continued at the discretion of the Committee. The complainant shall be afforded a fair hearing providing the basic safeguard of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

C. The complainant and the Town shall have the opportunity to examine and, before the hearing at the expense of the complainant, to copy all documents, records and regulations of the Town that are relevant to the hearing. Any document not made available after written request may not be relied upon at the hearing.

D. The complainant has the right to be represented by counsel.

## SECTION 2 CONDUCT OF THE HEARING

A. If the complainant fails to appear at the scheduled hearing, the Committee may make a determination to postpone the hearing or make a determination based upon the written documentation and the evidence submitted.

B. The hearing shall be conducted by the Committee as follows: Oral or documentary evidence may be received without strict compliance with the rules of evidence applicable to judicial proceedings.

C. The right to cross-examine shall be at the discretion of the Committee and may be regulated by the Committee as it deems necessary for a fair hearing.

D. Based on the records of proceedings, the Committee will provide a written decision and include therein the reasons for its determination.

## PART V. DEFINITIONS

**Accessory Dwelling Unit** See Town Code.

**Community Housing** - Dwelling units deed restricted to the housing size and type for individuals meeting income and minimum occupancy guidelines approved by the Town.

**Buydown Unit** - Free-market unit which the Town or a developer acquired and deed restricted to community housing.

**Capital Improvements** - Unless otherwise defined in the Deed Restriction covering the community housing unit, any fixture erected as a permanent improvement to real property excluding repair, replacement, and maintenance costs.

**Consumer Price Index (CPI)** - The Consumer Price Index that is used for purposes of the Guidelines and for purposes of the Deed Restriction is the *Consumer Price Index - U.S. City Average and Regions, Urban Wage Earners and Clerical Workers (CPI-W), All Items*, Updated information is received on a monthly basis from the U.S. Department of Labor, Bureau of Labor Statistics.

**Cosigner** - A joint signatory of a promissory note who shall not occupy the unit unless qualified by the Town for occupancy.

**Deed Restriction** - A contract entered into between the Town and the owner or purchaser of real property identifying the conditions of occupancy and resale.

**Dependent** - A minor child (21 years or younger) or other relative of the owner of an community housing unit, which child or relative is taken and listed as a dependent for federal income tax purposes by such owner or his or her present or former spouse (said dependent must also be related by blood or adoption and residing with the individual at least six months and one day [183 days] out of every 12-month period of time).

**Disabled Person** - A person who meets the definition of "individual with a disability" contained in 29 U.S.C. Section 706(8), and/or as defined in the Americans with Disabilities Act of 1990; and/or a person who has a "handicap," as defined in C.R.S. 24-34-301(4), the Colorado Anti-discrimination Act.

**Employee/Qualified Resident/Buyer** - A person who is employed on the basis of a minimum of 1,500 hours worked per calendar year in the Employment Area, which averages 35 hours a week, 10 months a year; or 32 hours a week, 11 months a year, physically working in the Employment Area and who resides in the unit a minimum of nine (9) months out of the year. Volunteering for a 501(C)(3) non-profit entity within the Employment Area for at least 1,000 hours per year also qualifies to satisfy the employment requirements. A qualified employee, resident, buyer shall meet the employment, income and asset, and occupancy requirements established herein for the category of unit that they are purchasing or occupying.

**Employer** - A person who works or performs service for a business

**Employee (Non-Profit)** - A person who works or performs service for a non-profit organization. Employees include artists, performers, musicians, organizers, bookkeepers, etc., but excluding construction workers. Non-profit organizations include any certified non-profit organization providing services to and located in the Employment Area.

**Employee Dwelling Unit** - See Town Code.

**Employee Housing** - See definition for Community Housing.

**Essential Employee**- Full-time employees working for organizations that provide services or essential utilities (water, sewer, electric, gas) needed for the health, safety, and welfare of the community. Examples of essential employees include, but are not limited to the Town utility and public works staff, police, firefighters, and teachers. Determinations about whether a certain occupation qualifies as an essential employee shall be made by the Special Housing Evaluation Committee.

**Family-Oriented Unit** - A dwelling unit attached or detached, 3 bedrooms or more, with direct ground floor access to a useable yard area.

**Fee Simple Estate** - The maximum possible estate that one can possess in real property; complete and absolute ownership of indefinite duration, freely transferable, and inheritable.

**Gross Income** - The total income, including alimony and child support, derived from a business, trust, employment and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

**Household** - All individuals who will be occupying the unit regardless of legal status.

**Household Income** - Combined gross income of all individuals who will be occupying the unit regardless of legal status. Adjustments to the gross for business expenses can be made for persons who are self-employed.

**Income Category** – Income categories are measured by maximum gross household income and household net assets. Housing units are categorized to reflect which income levels they are to service. A person or household can purchase a unit in a *higher* income category, but not in a lower income category than is reflected by their household gross annual income and net assets.

**Minimum Occupancy** - One person per bedroom. A minor child or dependent shall be granted equal status as a person with ownership interest.

**Present Value** - For the purposes of these Guidelines and any Deed Restrictions containing such terms, the present value shall be the cost or price of any capital improvements as established at the time of such improvement and shall be neither appreciated nor depreciated from such time.

**Primary Residence** - The sole and exclusive place of residence. The owner shall be deemed to have ceased to use the unit as her sole and exclusive place of residence by accepting permanent employment outside of the Employment Area, or residing in the unit fewer than nine (9) months out of any twelve (12) months.

**Purchaser** - A person who is buying or has purchased a deed restricted unit which is subject to these Guidelines, and any qualifying potential purchaser or past owner of any such deed restricted unit, but only with respect to any issue arising under these Guidelines.

**Qualified Person** - A person meeting the income limitations who meets the profile requirements (part of which requirements include being a qualified employee, a retired person, a disabled person, or dependent(s) of any of these as such terms are defined herein) established by the Town from time to time and in effect at any time.

**Retirement Age** - Should an owner of a deed restricted unit retire before the age of 65 and not satisfy the definition of an Employee/Qualified Resident/Buyer, that individual must sell the unit. Such individual may go through Special Housing Review to ask for a waiver to maintain ownership of his/her unit.

**R.O. (resident occupied)** – The R.O. category has no income or asset limits for the buyer or employee who rents from an employer. Unit must be occupied by the owner or an employee of the employer-owner. RO units may or may not include some type of appreciation cap depending on the type of RO unit.

**Special Housing Evaluation Committee** –Town Manager, Town Planning Director, Public Works Director, and Police Chief or their designees.

**Square Footage** – See Town Code.