

TOWN OF CARBONDALE

**COMMUNITY HOUSING
GUIDELINES**



Updated with 2023 AMI

Revised December 13, 2016

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

PURPOSE

Carbondale is located in a unique and highly desirable valley. The Town of Carbondale recognizes that having a supply of Community Housing¹ attainable by working households in the Town of Carbondale 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 Carbondale do not want Carbondale to become an exclusive community. Historically, working persons and households have been able to attain housing in the Carbondale area; and the Town of Carbondale currently reflects a mix of socio-economic backgrounds. The Town further recognizes that there is a growing gap between housing costs and wages in Carbondale. Therefore, the Board of Trustees has determined that it needs to develop and maintain a Community Housing program.

The intent of the Community Housing program is to mitigate the impact of market-rate housing construction on the limited supply of available land suitable for housing. The goal of these regulations is to require new development to provide community housing attainable by persons working in the Mid-Valley and paying no more than 30 percent of their household income for total housing expense, including debt service, homeowner's insurance, real estate taxes, land lease if any, and HOA dues, or rent plus utilities in the case of affordable rentals.

The Town of Carbondale should not lose ground on the existing level of Community Housing available in and around Carbondale. This means: all new residential developments will integrate community housing into the development or, if integration is impossible, provide meaningful Community Housing in other Carbondale locations; methods will be developed to maintain the affordability of existing housing in Carbondale.

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 through deed restrictions.

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's housing program should acknowledge regional issues and encourage coordination among jurisdictions including affordable housing standards and requirements. The Town will seek out partnerships with other entities supporting affordable housing and develop

¹ All defined terms in these Guidelines are set forth in Part V, below.

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.

POLICY STATEMENTS

The purpose of this section is to assist Town 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 Board of Trustees as needed from time to time.

- A. Mitigating Community Housing Impacts: The following list establishes the Town's options in order of preference depending on the site location. The following options are solely at the discretion of the Board of Trustees.
 - 1. On-site Community Housing.
 - 2. Buy-down Community Housing.
 - 3. Off-site Community 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 (in no order of preference):
 - 1. Entry level Community Housing Sale Units.
 - 2. Family-oriented Community Housing Sale Units.
 - 3. Entry level Community Housing Rental Units
 - 4. Family-oriented Community Housing Rental Units.
- C. Community Housing offered as mitigation shall provide for a balanced range of categories and, where possible, a diversity of unit types.
- D. Applicants are encouraged to be creative with Community Housing proposals. In accordance with C.R.S. § 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.

PART I. COMMUNITY HOUSING CATEGORIES

The Town's goal is to establish and implement a plan to have new development provide housing within the community at sales prices or rents that are attainable to persons and families of various incomes. In order to carry out this objective, Community Housing units are categorized to reflect

which income levels they are to serve as set forth in Sections 1 and 2 below. The maximum gross household income and maximum net assets for each income category are set forth in Table I.

TABLE I
MAXIMUM GROSS INCOMES AND ASSETS BY CATEGORY 2023

| | <u>Category 1</u> | <u>Category 2</u> | <u>Category 3</u> | Category 4 | <u>R.O.</u> |
|----------------------|-------------------|-------------------|-------------------|-------------------|-------------|
| 0 Dependents | \$ 79,360 | \$ 99,200 | \$119,040 | \$148,800 | n/a |
| 1 Dependent | \$ 86,860 | \$106,700 | \$126,540 | \$156,300 | n/a |
| 2 Dependents | \$ 94,360 | \$114,200 | \$134,040 | \$163,800 | n/a |
| 3 or more Dependents | \$101,860 | \$121,700 | \$141,540 | \$171,300 | n/a |
| Maximum Net Assets | \$150,000 | \$175,000 | \$200,000 | \$225,000 | n/a |

Income Categories: A household may qualify to purchase or rent a unit in a higher Income Category. Persons in the next higher Income Category may bid on lower Income Category units; however bidders qualifying for the unit Income Category have priority.

Net Assets: Net Assets do not include retirement instruments. Persons age 65 and over are allowed a 50% increase in net assets.

R.O.: Resident Owner Occupied units have no income or asset limits.

HUD AMI: The Income Categories correspond to the current HUD Area Median Income (AMI) for Garfield County. Categories 1 through 4 represent 80%, 100%, 120% and 150% AMI respectively. The Town of Carbondale begins its income categories with the Garfield County 4-person household and adds dependents from that benchmark.

PART II. PURCHASING OR SELLING COMMUNITY HOUSING

SECTION 1. QUALIFICATIONS TO OCCUPY COMMUNITY HOUSING

In all but employer-ownership circumstances, the deed restrictions for Community Housing Sale or Rental Units require occupancy by Qualified Persons according to the qualifications set forth in the applicable deed restriction and this Section. In employer ownership circumstances, these qualifications apply to the employee-occupant of Community Housing. To initially qualify for and be eligible to occupy a Community Housing unit, a Qualified Person must meet all of the following criteria:

- A. A Qualified Person must be a full-time employee working in the Roaring Fork River Drainage Basin located from Aspen to Glenwood and the Crystal River drainage including Redstone and Marble. ("Employment Area") with priority to persons who live or work within the boundaries of the Town of Carbondale, a retired person who has been a full-time employee in the Employment Area a minimum of four years immediately prior to his or her retirement with priority to persons who live or work within the boundaries of the Town of Carbondale, 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. Retirees who are new to the area may qualify to purchase an R.O. unit, but are next in Priority to persons meeting local employment history requirements of Part II, Section 1.A.
- B. A Qualified Person, upon purchase or leasing a Community Housing Sale or Rental Unit, shall occupy the unit as his or her primary residence. A Qualified Person 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. Resident Owner Occupied (R.O.) units must be occupied by the owner at least nine (9) months in a twelve (12) month period. The Developer of a R.O. unit may rent the unit to a qualified household until the unit is sold.
- 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 Sale Unit or leasing a Community Housing Rental Unit. If the property is not sold by the time of closing on purchase of the Community Housing Sale Unit or leasing a Community Housing Rental 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 or renting Community Housing, as soon as the land is improved with a residence the individual must relinquish the Community Housing.
- 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 of housing. Persons in the next higher income category may bid on a unit, but will be last in priority to income-qualified applicants and can only be considered if there is no other income-qualified applicant; the income category of the unit remains consistent with the original sale category and future sales will always give priority to income-qualified households within that category.
- E. R.O. is a category for resident-owner occupied Community Housing Sale Units, deed restricted to require the owner to live in the unit as the sole place of residence at least nine (9) months out of any twelve (12) months. There is no (1) income limit, (2) asset limit, (3)

appreciation cap, or (4) sales price restriction. Potential buyers of R.O. units must have worked in the Employment Area for four years immediately prior to retirement; priority will be given to qualified persons who have been employed within the Town of Carbondale boundaries. Disabled applicants must have worked in the Employment Area for at least two years.

- F. Hybrid R.O. is a R.O. unit with an appreciation cap on re-sales.

SECTION 2. HOW TO QUALIFY FOR COMMUNITY HOUSING

INITIAL QUALIFICATION: In order to determine that a person or household desiring to purchase or lease a 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:

1. Federal income tax returns for the last two years. Prospective purchasers must also furnish a current income statement and a current financial statement that identify all sources of income, in a form acceptable to the Town, verified by applicant to be true and correct; or other documentation acceptable to the Town.
2. Verification of employment in the Employment Area (i.e., wage stubs, employer name, address, and phone number, plus evidence of legal residency (e.g. 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.
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.
10. Information on assets, including bank and savings account statements or any other information deemed appropriate, in documentation acceptable to the Town.

SECTION 3.
QUALIFICATIONS TO RESIDE IN COMMUNITY HOUSING

To remain eligible to reside in a Community Housing unit, a person must meet the requirements of Part II, Section 1, A, B, and C.

SECTION 4.
PROCEDURES FOR PURCHASE AND SALE
OF COMMUNITY HOUSING SALE UNITS

A. SALES / REALES / LOTTERY

1. **SALE OR RESALE:** An owner of a Community Housing Sale Unit desiring to sell shall consult with the Town's Administrative Agent and review the Deed Restriction covering the unit to determine the maximum sales price permitted and other applicable provisions concerning a sale. Initial sales prices for new units are governed by an approved Housing Mitigation Plan with the Town.
2. **OFFERING FOR SALE:** The Community Housing Sale Unit shall be offered for sale with the Town's Administrative Agent which will administer the sale in accordance with the Guidelines in effect at the time of the listing; R.O. units with no appreciation cap are excepted.
 - A. Any termination in the offering may require the payment of administrative and advertising costs.
 - B. The Town's Administrative Agent acts as a Transaction Broker representing both the Buyer and Seller.
 - C. The Town's Administrative Agent is responsible for preparing all documents pertaining to the sale and purchase of mitigation units.
 - D. The fees paid to the Town's Administrative Agent are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.
 - i. There is a 1.5% fee involved in the sale transaction of a Deed Restricted Community Housing Unit, payable to the Town or its Administrative Agent.
 - ii. A fee shall be required for administration of R.O. deed restrictions as established by the Town's Administrative Agent; these units are not subject to sales fees as they are not sold through the Town's Administrative Agent.
3. **LOTTERY:** A lottery will be held for Community Housing Sale Units offered for sale through the Town's Administrative Agent. It is the intent of the Town of

Carbondale to ensure a simplified lottery process. The Program Administrator will take the following steps to notify the public of the availability and status of Community Housing Sale Units:

- A. The Program Administrator will advertise the lottery at least 21-30 days prior to the date of the lottery, or a reasonable period to be determined by the Program Administrator. Sources of information about prospective lotteries will include, but not be limited to local newspapers and the web site established for this purpose. This information will include:
 - B. A description of the Community Housing Sale Units available for purchase. This will include the unit type, square footage, number of bedrooms, maximum sale price and address of the properties.
 - C. A description of the maximum income a household may have in order to qualify to purchase the advertised Community Housing Sale Units.
 - D. Date, time and location for applications to enter the lottery
 - E. Date, time and location of the lottery.
 - F. Results of the lottery will be posted and available to the public.
 - G. If a lottery is required for a R.O. unit with no appreciation cap, the Town's Administrative Agent will assist the listing agent with the lottery to ensure that priorities outlined in the Guidelines are applied.
- 4. These Guidelines are intended to assure that all purchasers and all sellers will be treated fairly and impartially. Questions will be answered and help provided to any potential purchasers or sellers equally in accordance with the then-current Guidelines.
 - 5. In pursuit of the above, the Program Administrator will be acting on behalf of the Town. It should be clearly understood by and among all parties to a sales transaction that the Program Administrator is not acting as a representative or agent to the transaction, but as a representative of the Town and its interest in Community Housing.
 - 6. 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 Program Administrator are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.
- B. **DEED RESTRICTION:** The purchaser must execute, in a form satisfactory to the Town Attorney 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.

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 who meets the income, asset and employment requirements of the unit income category, 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. 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. 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.
PROCEDURES FOR LEASING COMMUNITY
HOUSING RENTAL UNITS**

Rental Community Housing Units may be developed to mitigate for new residential development or to satisfy inclusionary housing requirements as set forth in Article 5.11 of Chapter 17 of the Carbondale Municipal Code. To qualify to lease a Community Housing Rental Unit, an individual must meet the qualifications established in Part II, Section 1, A, B and C of these Guidelines and furnish the Town with the documents required in Part II, Section 2 of these Guidelines. Generally, developers of Community Housing Rental Units shall have the ability to select the renters of the units as long as the prospective renters are employed full-time in Carbondale or the Carbondale Employment Area and meet all of the occupancy, income, and asset requirements established in Part 1 of these Guidelines. However, all prospective renters must be qualified by the Town prior to occupying a Community Housing Rental Unit.

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

To ensure that the Town may administer Community Housing Rental Units, in addition to the standard deed restriction described in these Guidelines, developers constructing Community Housing Rental 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 Rental 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 | \$1,390 | \$1,489 | \$1,786 | \$2,064 |
| Category 2 | \$1,737 | \$1,861 | \$2,232 | \$2,580 |
| Category 3 | \$2,085 | \$2,233 | \$2,679 | \$3,096 |

***2023 Maximum rents taken from CHAFA guidelines**

1. Community Housing Rental Units will be offered for rent to all qualified persons under the procedures established by these 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 include utilities (e.g. water, sewer, electric, natural gas), but do not include 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.

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

SECTION 6.
LEAVES OF ABSENCE

If an otherwise Qualified Person who occupies a Community Housing Sale or Rental 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 for Community Housing Sale Units shall not exceed 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 a Qualified Person who meets the provisions of Part II, Section 1, A, B and C. 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 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 Review with all the above conditions applying. The rent for any authorized sub-tenant of a Community Housing Rental Unit shall not exceed the maximum rent allowed to be charged to the Qualified Person who is taking a leave of absence.

SECTION 7. SPECIAL REVIEW

A Special Review for a variance from the strict application of these Guidelines, except those requirements as outlined in Section 5.11 of the Unified Development Code, Community Housing Inclusionary Requirements, 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 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 Review meeting will then be scheduled in a timely manner. The Special Review 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 Carbondale whether required in connection with an application for free-market development or otherwise.

SECTION 1. HOUSING MITIGATION POLICY

- A. Mitigation of New Development.
- Residential development will be required to mitigate at a rate of 20% of the units, including 15% of the total bedrooms, for developments of greater than four units.
 - 20% of the total number of residential units remaining (total residential units minus total mitigation units) will be restricted to Resident Occupancy (R.O.), as defined in the Community Housing Guidelines.
 - .
- B. Fractional Remainders – Rather than creating a cash-in-lieu mechanism for fraction requirements the development's mitigation responsibility will be rounded to the nearest

whole number – below 0.5 rounds down (=Zero unit), and round up from 0.5 and higher (=One unit).

C. Sequencing of Mitigation Units – The sequence of required mitigation units will be as follows:

- 1st mitigation unit – Category 2
- 2nd mitigation unit – Category 1
- 3rd mitigation unit – Category 3
- 4th mitigation unit – Category 4

Repeat the cycle for additional mitigation units.

D. Maximum Selling Price for each Category: The maximum price of a unit will be calculated based upon not more than 30% of gross household income for principal, interest, taxes, insurance and Homeowner Association fees. See Section 3, Table III.

SECTION 2.

ANNEXATION POLICY FOR COMMUNITY HOUSING MITIGATION

Annexation Policy – future annexations will be expected to provide a Real Estate Transfer Assessment based on a sliding scale as follows:

- 0% for units priced at \$250k or less;
- 0.5% for units priced between \$250k and \$500k; and
- 1% for units priced at \$500k or more.

Deed restricted units with an appreciation caps are exempt.

Additionally, future annexations will be required to provide 20% mitigation for residential development of 5 units or more.

Finally, of the total number of residential units remaining (total residential units minus total mitigation units), 30% will be restricted to Resident Occupancy (R.O.), as defined in the Community Housing Guidelines.

SECTION 3.

REZONING POLICY FOR COMMUNITY HOUSING MITIGATION

Rezoning Policy – For development that requests rezoning from non-residential to residential zone districts, the development will mitigate for affordable housing as the Code requires and of the total number of residential units remaining after mitigation (total residential units minus total mitigation units), 20% will be restricted to Resident Occupancy, as defined in the Community Housing Guidelines.

SECTION 4.
**MINIMUM SQUARE FOOTAGE FOR
 NEWLY DEED RESTRICTED COMMUNITY HOUSING UNITS**

Table II sets forth the allowable Minimum Square Feet for each unit type and category. Developers may choose to construct larger units; however, allowable sale prices for such larger units may not exceed the maximum set forth in Table III. The minimum square footage requirements may be reduced upon approval by the Board of Trustees 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
 SQUARE FEET FOR EACH UNIT TYPE AND INCOME CATEGORY**

| <u>Unit Type</u> | <u>Categories 1 & 2 Square Feet</u> | <u>Category 3 & 4 Square Feet</u> |
|------------------------|---|---|
| Studio | 415 | 500 |
| 1 Bedroom | 580 | 690 |
| 2 Bedroom | 750 | 900 |
| 3 Bedroom | 1,000 | 1,100 |
| Single-Family Detached | 1,100 | 1,200 |

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 5.
**MAXIMUM SALES PRICES FOR NEWLY DEED RESTRICTED
 COMMUNITY HOUSING SALE UNITS AND FOR COMMUNITY LOTS**

Table III sets forth the maximum sales price for newly deed restricted Community Housing Sale Units to the initial purchaser. The maximum resale price of a unit shall be controlled by the Deed Restriction covering the unit executed by the initial purchaser upon closing of the initial purchase.

**TABLE III
MAXIMUM UNIT SALES PRICES**

| Category | 1 | 2 | 3 | 4 |
|--------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| | | | | |
| <i>Price Range</i> | \$----- <i>To</i> \$----- | \$----- <i>To</i> \$----- | \$----- <i>To</i> \$----- | \$----- <i>To</i> \$----- |

There is no maximum initial price on R.O. (Resident Owner Occupied) Category units.

Maximum sales prices are based on not more than 30% of household income for housing costs, including principal, interest, taxes, insurance and Homeowner Association fees. These amounts will change annually with the release of the HUD Area Median Income (AMI for Garfield County).

NOTES:

All newly deed restricted Community Housing Sale Units must be in a marketable condition and comply with the Uniform 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 6.
NO FEES IN LIEU**

The Town of Carbondale will not accept payments of fees in lieu of Community Housing mitigation. If a fraction of a unit is calculated for housing mitigation, the unit requirement rounds up to the nearest whole number if the calculation is .5 or more; calculations of less than .5 will not require a unit or fraction thereof.

**SECTION 7.
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 Board of Trustees.

- 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 8.

BUY-DOWNS: DEED RESTRICTING EXISTING DWELLING UNITS

- A. 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 Board of Trustees.
- 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 Board of Trustees: 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 wall 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 Town's building code in effect at that time, and the condition of all units shall be verified by the Town Building Official. 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
- C. Early Buy-down proposals from developers seeking Community Housing mitigation credit prior to submittal of a specific development application are subject to the following conditions:
 - 1. Consideration of an early Buy-down proposal shall be at the sole discretion of the Board of Trustees.

2. The property location, condition and zoning for an Early Buy-down proposal shall be disclosed, and the property shall be inspected by Town staff prior to proposal submittal; the Board of Trustees is encouraged to view the units in order to determine their merit.
3. At least 50% of Community Housing mitigation shall occur on-site if Early Buy-down Credits are to be used.
4. Sales price adjustments shall be made for units not meeting the development standards set forth in the Guidelines (e.g., the percent of shortage in minimum square footage shall be translated into an equal percent reduction in maximum allowable initial sales price).
5. Credit vouchers shall be issued equal to the newly deed restricted income category and number of bedrooms for each unit (thus encouraging a range of income categories and unit types).
6. Persons currently living in the Early Buy-down Units shall have first priority to purchase the units if they qualify for the income category of the deed restriction.
7. Credit vouchers shall be valid for five (5) years from the date of issuance.

SECTION 9.

EXECUTION OF DEED RESTRICTIONS BY DEVELOPMENT APPLICANTS

Deed Restrictions must be submitted by the development 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 Review 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 Review 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

Buy-down Unit - Free-market unit approved by Board of Trustees which the Town or a developer acquired and deed restricted to a specific category of Community Housing to meet Community Housing mitigation requirements.

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.

Community Housing- Residential dwelling units within the Town of Carbondale that are deed restricted to the housing size and type for individuals meeting income, occupancy and employment

guidelines approved by the Town, including both Community Housing Sale Units and Community Housing Rental Units, as defined below.

Community Housing Rental Unit- A Community Housing unit that is deed-restricted to establish maximum rents as well as residency, employment and income qualifications for tenants.

Community Housing Sale Unit- A Community Housing unit that is deed-restricted to establish maximum initial sales and resale prices, as well as residency, employment and income qualifications for owners and occupants.

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 West Region, Consumer Price Index, Urban Wage earners and Clerical Workers (CPI-W) (1982-84=100), not seasonally adjusted, published by the U.S. Department of Labor, Bureau of Labor Statistics ("Consumer Price Index").

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 (18 years or younger) or other relative of the owner of a 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.

Early Buy-down Unit - A free-market unit approved by the Board of Trustees which a developer acquired and deed restricted to a specific category of Community Housing to meet a portion of Community Housing mitigation requirements for a future development application.

Employee/Qualified Resident - 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 as their sole and exclusive place of residence a minimum of nine (9) months of a twelve (12) month period.

Employer - A business whose principal business address is located within the Employment Area, whose business employs employees (as defined herein).

Employee Housing - See definition for Community Housing.

Employment Area – Employment Area shall mean that portion of the Roaring Fork River Drainage Basin located from Aspen to Glenwood and the Crystal River drainage including Redstone and Marble. Priority will be given to residents or persons employed within the Town of Carbondale boundaries.

Family-Oriented Unit - A dwelling unit attached or detached, 2 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.

Hybrid R.O. (Hybrid - resident-owner occupied) – Hybrid R.O. is a category for resident- owner occupied units with an appreciation cap for re-sales.

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. Qualified applicants in the next higher income category may bid on a unit; priority is given to applicants that qualify for the unit income category. If a unit is purchased by a household in the next higher income category, the original category deed restriction remains in place at resale.

Occupancy – A qualified person, upon the purchase of any category of Community Housing Unit, must occupy the unit for no less than nine (9) months of a twelve (12) month period as their sole and exclusive place of residence. Resident Owner Occupied (R.O.) units must be occupied by the owner at least nine (9) months in a twelve (12) month period.

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 for Income Category Units. 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. Resident Owner Occupied (R.O.) units must be occupied by the owner at least nine (9) months in a twelve (12) month period.

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, that individual must sell the unit. Such individual may go through Special Review to ask for a waiver to maintain ownership of his/her unit.

R.O. (resident-owner occupied) – R.O. is a category for resident-owner occupied units, deed restricted to require the owner (natural person) to live in the unit as their primary residence: Resident Owner Occupied (R.O.) units must be occupied by the owner at least nine (9) months in a twelve (12) month period. Unit must be occupied within 60 days of purchase. There is no (a) income limit, (b) asset limit, (c) initial sale price cap or (d) appreciation cap. Retirees who are new to the area may qualify to purchase an R.O. unit, but are next in priority to persons meeting local employment/ employment-history requirements of the Town of Carbondale Community Housing Guidelines Part II, Section 1.A.

Senior Citizen – A person 65 years of age or older.

Special Review Committee – Town Manager, Housing Program Administrator, Town Finance Department Manager, and Town Housing Planner.