

<b>Topic:</b>	Affordable Housing; Zoning
<b>Resource Type:</b>	Regulations
<b>State:</b>	Colorado
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Basalt
<b>Year (adopted, written, etc.):</b>	1999-2001
<b>Community Type - applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Basalt Housing Mitigation Ordinance
<b>Document Last Updated in Database:</b>	March 23, 2017

### ***Abstract***

The Zoning Code for Housing Mitigation requires twenty percent of all newly constructed dwelling units and fifteen percent of the bedrooms of all new residential developments comprised of five or more units be affordable housing. All commercial developers must pay a housing mitigation fee of fifty cents per square foot. The commercial developer must provide a percentage of affordable housing correlating to the number of employees expected to work in the structure after completion based on a formula provided in the statute. Furthermore, 100% of all affordable housing units that undergo any sort of redevelopment must be replaced. Finally, the town may waive certain fees if developer constructs affordable housing

### ***Resource***

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

(a) Basalt is located in a unique and highly desirable valley. The Town recognizes that having a supply of affordable housing attainable by households earning lower and median incomes in the Town is critical to retaining a diversified and sustainable Town having the character and sense of community of a Town where people can live and work in the same area. The citizens of the Town do not want Basalt to become an exclusive community. Historically, persons earning lower and median incomes have been able to attain housing in the Basalt area, and the Town currently reflects a mix of socioeconomic backgrounds. The Town further recognizes that there is a growing gap between housing costs and wages in Basalt. Therefore, the Board of Trustees has determined that it needs to develop and maintain an affordable housing program.

(b) The intent of this affordable housing program is to require new development to mitigate for a portion of the employees generated by such development and to reflect and maintain the Town's small town character and enhance the livability of the Town. The goal of these regulations is to require new development to provide affordable housing

attainable by persons having lower and median incomes paying not more than twenty-eight percent (28%) to thirty six percent (36%) of their household income for total housing expense.

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

(2) Affordable housing should be disbursed throughout the community and, where possible, integrated into the existing community fabric.

(3) The Town encourages community participation in solving and benefitting from solutions to the affordable housing concerns. The Town intends to supplement the provisions of this Article by developing a program that looks at the total benefits to a neighborhood and to the community while relying less on numerical standards and limitations.

(4) The Town will emphasize programs that will result in the creation of affordable housing units -- by units being constructed or by existing units being permanently restricted for affordable housing, either through deed restrictions or other methods. As an example, the Town has identified as a priority an Accessory Dwelling/Employee Dwelling Unit Program. This will include an educational program on the benefits and workings of the Accessory Dwelling/Employee Dwelling Unit Program.

(5) Affordable housing will be transit friendly, integrate with intermodal transportation connections and perpetuate the Town's history of pedestrian walkability and ease of mass transit use.

(6) The Town will look at the total costs for all housing, including life cycle costs such as painting, building materials and energy costs. The Town will work toward a zero energy footprint for all housing.

(7) The Town's housing program should acknowledge regional issues and encourage coordination among jurisdictions including affordable housing standards and requirements. The Town will seek out partnerships with other entities supporting affordable housing and develop reciprocal agreements. The Town will discourage jurisdiction shopping for development proposals.

(8) The Town will support creative housing solutions, including projects that include sweat equity by those benefitting from the housing subsidy. (Ord. 6, § C, 1999; Ord. 26, § 2, 2001)

#### **Sec. 16-412. Definitions.**

The following definitions shall apply to the following terms and phrases:

(1) Accessory dwelling unit or ADU shall mean affordable housing which is a separate dwelling unit that contains not less than four hundred (400) square feet and not more than one thousand two hundred (1,200) square feet of floor area, comprises not more than thirty-three percent (33%) of the total floor area on the lot and (a) is located within or attached to a principal dwelling unit, but has a separate entrance from such principal dwelling unit, or (b) is detached from the principal dwelling unit but located on the same lot. ADUs shall be subject to a deed restriction requiring occupancy in accordance with the Affordable Housing Guidelines then in effect.

(2) Affordable housing shall mean a dwelling unit which is deed restricted in accordance with a deed restriction approved by the Town Attorney so as to be generally attainable.

(3) Affordable Housing Guidelines shall mean guidelines adopted by resolution of the Board of Trustees which may include, but shall not be limited to, standards concerning the procedure for qualifying to obtain affordable housing; the limitations (e.g. income and asset) and requirements (e.g., residency) for qualifying to obtain affordable housing; forms of approved deed restrictions; limitations on appreciation of sale prices of affordable housing; procedures for sale of affordable housing; priorities for persons bidding to purchase affordable housing; occupancy requirements; size and price limitations; maximum price increases; employee generation standards for commercial land uses; standards for number of residences per dwelling unit; land dedication standards; quality of construction requirements for new affordable housing; possible density bonuses for construction associated with affordable housing; and formulae for calculating any payment of a fee-in-lieu of provision of affordable housing. The Affordable Housing Guidelines and any subsequent amendments thereto shall be adopted only after a duly noticed public hearing at which such guidelines are considered.

(4) Employee dwelling unit or EDU shall mean a separate dwelling unit that contains not less than four hundred (400) square feet and not more than one thousand two hundred (1,200) square feet of floor area and (a) is located within or attached to a commercial development, but has a separate entrance from such commercial development, or (b) is detached from the commercial development but located on the same lot. EDUs shall be subject to a deed restriction requiring occupancy in accordance with the Affordable Housing Guidelines then in effect.

(5) New residential or new commercial development shall mean any such development for which a building permit is not issued prior to the effective date of the ordinance codified herein except development which is exempt by virtue of a vested property right pursuant to a site specific development plan as defined and established by and pursuant to Section 24-68-103, C.R.S., and Section 17-125 of this Code, or which is otherwise specifically exempt pursuant to an ordinance of the Board of Trustees. (Ord. 6, § C, 1999; Ord. 26, § 3, 2001)

**Sec. 16-413. Employee Impact and Housing Mitigation Report.**

Unless waived in part or whole by the Town Planner in order for the Town to be able to assess the need for housing mitigation generated by new nonresidential development, any application for site plan review (Sections 16-111 through 16-113), planned unit development (Section 16-65), subdivision (Sections 17-83 and 17-84), rezoning (Section 16-267) or special review (Section 16-43) containing nonresidential development shall include an Employee Impact and Housing Mitigation Report prepared by a professional qualified to prepare such report and approved by the Town using recognized standards which provide, at a minimum, the following items:

(1) An analysis of the number of full time equivalent employees which will be added to the Town as a result of the applicant's proposed nonresidential development, including employees during and necessary for construction of the project as well as employees necessary after complete build out of the project;

(2) An analysis of the number, size, type and configuration of all housing on the property as of January 1, 1999, which was generally attainable by households having low and median incomes (household income less than fifty thousand dollars [\$50,000.00] in 1999) paying not more than twenty-eight percent (28%) to thirty-six percent (36%) of their household income for total housing expense, including debt service or rental payments, homeowner's or renter's insurance, real estate taxes and utilities;

(3) A description of the manner in which the applicant proposes that employees will be housed, including any on-site or offsite housing the applicant will provide;

(4) A description of the methodology by which the applicant will ensure that the housing to be provided by the applicant will be maintained as housing available for employees of the Town; and

(5) A written statement verifying that the proposed development is in compliance with the then-existing Master Plan. (Ord. 27 § 1, 1998; Ord. 6, § C, 1999; Ord. 26, § 4, 2001)

#### **Sec. 16-414. Waiver or additional information.**

The Town Planner may waive the requirement of preparing and filing the Employee Impact and Housing Mitigation Report in instances when the Town Planner finds that the preparation and filing of the report for a particular application is unduly burdensome, duplicative or unnecessary because the applicant conclusively demonstrates there will be no impacts on the employees of the community or the availability of housing in the Town generated by the proposed development; or the Town Planner conclusively finds that the applicant has proposed a plan for affordable housing that satisfies all of the requirements of Sections 16-416, 16-417 and 16-418 below. The Technical Review Committee, Planning and Zoning Commission and Board of Trustees shall have the right to ask the applicant for any additional or supplemental information not provided in such report prior to granting any approval, denial or approval with conditions for the application. (Ord. 27 § 1, 1998; Ord. 6, § C, 1999; Ord. 26, § 5, 2001)

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

Except as otherwise provided in this Article, a requirement to provide affordable housing shall require construction of newly deed-restricted affordable housing or recording a deed restriction against title to existing housing not previously deed restricted. The applicant shall in its development application propose the location and the mixture of type, size and configuration of the affordable housing which shall be subject to the review and approval, approval with conditions or denial in the sole discretion of the Board of Trustees. The Board of Trustees, with information provided by the Town staff and the applicant, shall require affordable housing in a location and a mixture of unit types, sizes and configurations which is most likely to offset the impacts of the specific development on a case-by-case basis. Additionally, in determining the location and mix of unit types, sizes and configurations, the Board of Trustees shall consider the then-perceived needs of the community for housing. Applicants are encouraged to be creative with affordable housing proposals. The requirement to provide affordable housing pursuant to the following residential, commercial and replacement housing sections may be satisfied in full or in part through the creation of ADUs or EDUs. This may include the construction of new ADUs or EDUs at off-site properties (i.e., properties other than the property which is the subject of the new development), the construction of new ADUs or EDUs on-site, the recording of new deed restrictions on existing accessory units, or other mechanisms subject to approval of the Board of Trustees that will create dwelling units that are assured to meet the Town's affordability criteria on a permanent basis. In the sole and absolute discretion of the Board of Trustees, a requirement to provide affordable housing may be satisfied in whole or in part by the dedication of land to the Town or an entity designated by the Town for affordable housing or the payment of fees-in-lieu of affordable housing in accordance with the Affordable Housing Guidelines. In the case of fractional or partial affordable housing unit requirements, the applicant may satisfy the requirement by payment of fees-in-lieu of affordable housing in accordance with the Affordable Housing Guidelines. All affordable housing required for a particular development approval shall be available for occupancy prior to or simultaneous with issuance of a certificate of occupancy for any of the nonaffordable housing components of the development, except upon approval of the Board of Trustees of a specific phasing schedule for the development. All affordable housing shall be located within the urban growth boundaries as defined in the then-current Master Plan, and shall otherwise be consistent with the goals and objectives of the then-current Master Plan. (Ord. 6, § C, 1999)

**Sec. 16-416. Residential development mitigation requirements.**

At least twenty percent (20%) of the dwelling units and fifteen percent (15%) of the bedrooms of all new residential development comprised of five (5) or more units or lots, including the residential component of a mixed use development, shall be affordable housing. (Ord. 6, § C, 1999)

**Sec. 16-417. Commercial development mitigation requirements.**

(a) All new commercial development shall pay to the Town an affordable housing mitigation fee equal to fifty cents (\$.50) per square foot of the maximum allowable square footage of a development at the time of recording in the county records of a final development approval.

(b) Additionally, all new commercial development, except for additions to or remodeling of existing structures which results in no more than one thousand (1,000) square feet of additional countable floor area, shall provide affordable housing for a maximum of twenty percent (20%) of the full-time equivalent employees generated by such development. The percentage of mitigation required shall be a number ("mitigation factor") determined by dividing the number of full-time equivalent employees generated by a development by one hundred (100). The mitigation factor shall then be multiplied by the number of full-time equivalent employees generated by the development to determine the number of full-time equivalent employees for which affordable housing shall be provided. The number of full-time equivalent employees generated by a development shall be the greater of the number of such employees as determined by the Employee Impact and Housing Mitigation Report, if any, required by Section 16-413 or the ITE Trip Generation Tables. The number of employees housed by a particular number of bedrooms per affordable housing dwelling unit shall be as determined by Table 16-417 A, as such table may be amended from time to time by the Affordable Housing Guidelines. At the time of review and approval of a development review containing new commercial development, the Town and developer shall use their best efforts to estimate the likely number of square feet of each type of use allowed in the development for purposes of this calculation.

TABLE 16-417 A

Type of Dwelling Unit	Employees Housed Per Unit
Studio/dormitory	1.25
One-bedroom	1.75
Two-bedroom	2.25
Three-bedroom	3.00
Four or more bedrooms	3.00 plus .5 for each bedroom in excess of

three bedrooms

(Ord. 6, § C, 1999)

**Sec. 16-418. Replacement housing requirements.**

Redevelopment of any property in the Town or newly annexed to the Town which, as of January 1, 1999, had four (4) or more residential housing units generally attainable by persons with a household income of fifty thousand dollars (\$50,000.00) on January 1, 1999, shall replace one hundred percent (100%) of such housing with affordable housing. Any such replacement affordable housing may be located on the property being redeveloped or on any other property within the urban growth boundaries as identified in the then-current Master Plan. The unit type and configuration of any such replacement housing shall be as similar in nature and number of bedrooms as reasonably possible and shall be subject to approval by the Board of Trustees. (Ord. 6, § C, 1999)

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

Affordable housing, including deed-restricted ADUs and EDUs, may be exempted by the Board of Trustees from the payment of certain fees required by this Code, such as fees or land dedications required for park land dedication, school land dedication, special improvement fees and water tap fees in special circumstances. (Ord. 6, § C, 1999)