

Wasatch County Affordable Housing Ord.

Section 16.30.01 Purpose.

The purpose of this chapter is to ensure that developments provide a range of housing opportunities for all identifiable economic segments of the population, including households of low and moderate income. It has therefore become a requirement of development in the County:

(1) To require all developments of ten (10) units or more to provide units equal to ten (10) percent of the Equivalent Residential Units (ERU's) proposed for their project as Affordable Housing units within the development, or to pay a fee-in-lieu to Wasatch County to be used to assist in other ways to create Affordable Housing within Wasatch County.

(2) When approved by Wasatch County and the Wasatch County Housing Authority, to allow alternatives to onsite construction in order to provide a special use deemed necessary and appropriate to accomplish the purposes of Affordable Housing.

Section 16.30.02 Requirements.

(1) This chapter shall apply to all development of ten (10) Equivalent Residential Units (ERU's) or more as defined in this chapter. "Development" shall include the receipt of final approval for the creation of lots for sale or the construction of residential, commercial or industrial units.

(2) An equivalent of ten (10) percent of each development to which this chapter applies, shall be Affordable Housing through either construction of Affordable Housing units on-site within the development being proposed or by payment of a fee-in-lieu of construction. However, any development which, after having performed an impact study through a County-approved expert, can show that its impact on Wasatch County's Affordable Housing supply is different from ten (10) percent may satisfy its affordable Housing requirement by complying with the findings of that study. If such impact study is to be performed, it must be completed and approved prior to receipt of preliminary approval of such development.

Section 16.30.03 Standards.

(1) The Affordable Housing units should be built within the development project site to allow for a blending of such units with market rate units.

(2) The Affordable Housing units should be built concurrently with market-rate units.

(3) The Affordable Housing units should be disbursed, not concentrated on the site.

(4) Affordable rental units shall remain restricted and affordable to the designated income group of qualified individuals for the life of the unit. Notwithstanding anything to the contrary, no affordable rental unit shall ever be approved for rental in an amount which exceeds ninety (90) percent of the rent charged at that point in time, for a comparable market unit in the same development, if any. Actual rent to be charged and later

increases shall be determined in an Affordable Housing Agreement to be entered into prior to receiving final approval on any project.

(5) The design of units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.

(6) One (1) Affordable Housing unit shall normally be consistent in size with a residence intended for a family of four (4). If the developer wishes to provide any smaller units for single tenants, no such unit shall be less than five hundred (500) square feet per tenant in size and shall receive credit for the Affordable Housing requirements based upon the ERU classification for that unit. Therefore it may take three (3) or more single units to equal one (1) unit of Affordable Housing.

(7) Affordable Housing units shall provide a mix of number of bedrooms in the affordable dwelling units in response to Affordable Housing demands identified by the Wasatch County Housing Authority, so that the total ERUs provided for Affordable Housing equal ten (10) percent of the ERUs contained in the project, and the units being provided are of a size necessary to meet the current demand.

(8) No building permit shall be issued and no final approval granted which does not meet the requirement of this chapter.

(9) If a developer intends to build his required amount of Affordable Housing units at a time which is not concurrent with the building of the market-rate units, and a later construction schedule is agreed upon as part of the development approval process (not to exceed one (1) year), a bond or other financial assurance equal to one hundred ten (110) percent of the current fee-in-lieu, shall be placed with Wasatch County to insure the building of the Affordable Housing units within the time agreed upon or one (1) year from final approval, whichever is sooner.

(10) The County, during the development approval process, may approve alternatives to the construction of new Affordable Housing units contained within the development, where the proposed alternative supports specific housing policies and goals, and assists the County in meeting those goals. Alternatives may include acquisition and rehabilitation of Affordable Housing units, conversion of existing market-rate units to affordable units, construction of special needs projects or shelters.

Section 16.30.04 Paid Fees-in-Lieu of Construction.

(1) Contributions of fees-in-lieu are considered a viable choice to building on-site, so that public and private dollars can be leveraged for more Affordable Housing good.

(2) The fee to be paid for each market-rate unit shall be determined by the subsidy needed to make a market-rate unit affordable to a low-income household. This subsidy shall be based upon a determination of the average subsidy that would be required to make a typical new starter home consisting of three (3) bedrooms/two (2) baths affordable to a family earning eighty (80) percent of the median gross income of the metropolitan statistical area for households of the same size.

(3) The actual fee to be charged and the method of payment shall be fixed by a schedule adopted periodically, by resolution of the Wasatch County Housing Authority, based upon current costs of construction and interest rates. Said fee shall be assessed against the market-rate lots/units of a development and shall be paid by the developer.

(4) All fees-in-lieu shall be deposited in a Housing Trust Fund. Said fund shall be administered by the Wasatch County Housing Authority and shall be used for the purpose of providing funding assistance for the provision of Affordable Housing for rent and for

sale units, as well as any reasonable costs of administration consistent with the policies and programs of the Wasatch County Housing Authority.

(5) At the discretion of the County Legislative Body and the Housing Authority, a developer may make an irrevocable dedication of land or other non-monetary contributions of a value not less than the sum that would have been due as a fee-in-lieu, if it is determined that the non monetary contribution will be helpful in furthering the goals and policies of the County Affordable Housing Plan and the Housing Authority. Any costs associated with such appraisal shall be borne by the developer.

Section 16.30.05 Affordable Housing Agreement as a Condition of Development.

(1) Developers, subject to this chapter, shall demonstrate compliance by executing an Affordable Housing Agreement prepared by the Housing Authority and submitted to the developer for execution. Agreements shall be reviewed by the Wasatch County Planning Department for ERU compliance and density bonus calculations, the Executive Director of the Housing Authority for completeness and approved by the Chairman of the Board of the Housing Authority. The approval and execution of the Affordable Agreement shall take place prior to the final approval of the development. Agreements, which involve special concessions or incentives, shall require the recommendation of the Housing Authority Board and the County Legislative Body prior to execution. An Affordable Housing Agreement, for which the housing requirement will be satisfied through new construction of Affordable Housing units, shall establish, but not be limited to, the following:

- (a) The total number of units proposed in the project;
- (b) The average selling price of a unit for each of the phases of the development;
- (c) The number of affordable units proposed;
- (d) The square footage, calculated ERUs and numbers of bedrooms;
- (e) The proposed location of the units;
- (f) The schedule for production of dwelling units, both affordable and market rate;
- (g) Production cost associated with dwelling construction;
- (h) Appraisals for units;
- (i) Providing copies of plans for such units;
- (j) Security posted or to be posted prior to recording of final plat, for building of units, if construction of such units will not take place at the same time as the market rate units in a proportionate manner;
- (k) An Affordable Housing Agreement will not be required for projects which will be satisfying their Affordable Housing requirements through payment of a fee-in-lieu, provided such payment is made prior to final plat approval. The developer is required to provide the Planning Department with a statement of the average anticipated selling price for a unit in each planned phase of the development; and
- (l) An Affordable Housing Agreement for which Affordable Housing requirements will be satisfied, all or in part, through a fee-in-lieu contribution other than money, shall include the method of determination, schedule and value of total fee-in-lieu contributions, which must be approved by the County Legislative Body and Housing Authority.

Section 16.30.06 Enforcement.

(1) The provisions of this chapter shall apply to all developers and their agents, successors and assigns proposing any development in Wasatch County of more than five (5) units, unless an impact study performed as described in Section 16.30.04(1,D), above, has performed and approved.

(2) The County and/or the Housing Authority may institute any appropriate legal actions or proceedings necessary to ensure compliance with this chapter, including but not limited to actions to revoke, deny or suspend any permit or development approval.

(3) It shall be a class "C" misdemeanor for any individual or entity to sell or rent a restricted Affordable Housing unit for a sum in excess of the Affordable Housing rate set forth in the Affordable Housing agreement governing that unit. Excess proceeds of an unlawful sale or unlawful rental shall be forfeited shall be paid to the Housing Authority Trust Fund.

Section 16.30.07 Pre-existing Approvals.

All developments that have been approved or are presently pending approval in Wasatch County, since March 1997, have been informed of the presence and contents of the Wasatch County Affordable Housing Plan both pending its adoption, and after its adoption. They were additionally informed during all discussions of their development with the Planning Staff that they were subject to it's terms. A copy of such plan has been available since it's adoption. Therefore, all developments over five (5) units that have received any approvals since March 30, 1997 are subject to this chapter.

Section 16.30.08 Employee Housing Credit.

Any development that conforms to the definitions of a "Resort Development" and "Employee Housing Unit" as stated in this Title may receive partial credit for meeting the Affordable Housing requirement of Wasatch County, except for Affordable Housing requirements requiring fee-in-lieu payment by agreement between the developer and Wasatch County. Further, any development that conforms to the definition of a "Resort Development" and "Seasonal Employee Housing Unit", as stated in this Title, may receive partial credit for meeting the Affordable Housing requirement of Wasatch County. However, the credit shall not exceed twenty five (25) percent of the total Affordable Housing requirement for a development or project.

Section 16.30.09 Severability.

If any of the provisions of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 16.30.10 Definitions.

- (1) Affordable. Housing that costs no more than thirty (30) percent of a household's income.
- (2) Affordable Housing. Housing occupied or reserved for occupancy by households with a gross household income equal to or less than eighty (80) percent of the median gross income of the metropolitan statistical area for households of the same size. Such housing cannot cost more than thirty (30) percent of a household's income.
- (3) Affordable Housing Agreement. A legally binding agreement between a Developer, the County and County Housing Authority which insures that the requirements of this chapter are satisfied.
- (4) Allowable Housing Expense. The total monthly or annual recurring expenses required of a household to obtain shelter. These expenses include loan principal and interest, property and mortgage insurance, property taxes, homeowners' association dues, etc. In a rental unit only, this amount would include the cost of obtaining basic public utility services.
- (5) Affordable Housing Unit. A dwelling unit that will be offered for rent or sale exclusively to, and which shall be affordable to, lower-income households as required by this chapter.
- (6) Base Residential Units. The number of lots or Equivalent Residential Units (ERU's) associated with each development from which are calculated the number of affordable units to be provided or the amount of the fee-in-lieu to be paid.
- (7) Conversion. The change of status of a dwelling unit from a purchased unit to a rental unit or vice versa.
- (8) Employee Housing Unit.
 - (a) A dwelling unit which shall not be leased or rented for any period less than thirty (30) consecutive days, and shall be rented only to tenants who are full-time or seasonal employees and shall be employed by the resort. Housing provided on site for employees may include the following types:
 - (i) Dormitory;
 - (ii) Efficiency Unit; and
 - (iii) One (1), two (2), or three (3) bedroom apartments (up to one thousand (1,000) square feet).
 - (b) The compensation from the Resort Development employer of seasonal employee occupying Seasonal Employee Housing Units may not exceed eighty (80) percent of the Wasatch County median income adjusted to a one (1) person household for the period of occupancy and the rental rate charged fulltime employees for Full Employee Housing Units by the Resort Development employer may not exceed the HUD established rental rate for a SRO/Studio adjusted to eighty (80) percent of a one (1) person household. The Resort Development employer operating Full Time Employee Housing Units shall report occupancy and qualification with the provisions of this ordinance annually to the Wasatch County Housing Authority.
- (9) Equivalent Residential Unit (Also known as an "ERU"). A unit size, which represents the size of an average single family home, which comfortably houses at least four (4) people. Smaller units shall represent a portion of an equivalent residential unit (ERU).

The Planning staff shall make a determination of ERU calculations using the Unit Equivalent Chart contained in Appendix 2, Figure 11 of this Title as a guide (this chart may also be found in Chapter IV.C.5 of the Jordanelle Land Use Plan [JLUP]), which shall be subject to review by the Planning Commission and established as part of preliminary approval. For obvious reasons Affordable Housing needs shall be met with residential ERUs. This chart is also provided to show the ERU calculations for Commercial and Industrial uses for purposes of establishing the number of ERUs, which must be provided to meet the requirement of Affordable Housing in residential ERUs.

(10) Financial Assistance. Assistance to include, but not be limited to, the subsidization of fees, infrastructure, land costs, or construction costs, the use of Community Development Block Grant (CDBG) Funds, down payment assistance, interest buy-downs, or the provision of other direct financial aid or other monetary compensation, by Wasatch County or the Wasatch County Housing Authority.

(11) Low Income. Eighty (80) percent or less of median family income for Wasatch County.

(12) Market Rate Unit. A dwelling unit where the rental rate or sales price is not restricted by requirements imposed by local, state or federal Affordable Housing programs.

(13) Moderate Income. Eighty one (81) percent to one hundred twenty (120) percent of median family income for Wasatch County.

(14) Qualified Applicants. Applicants for Low-Income units must make eighty (80) percent or less than median family income for Wasatch County. Applicants for Moderate-Income units must make between eighty one (81) percent and one hundred twenty (120) percent of median family income for Wasatch County. If all other requirements are equal, first preference shall be given to applicants who have been residents of Wasatch County for at least ninety (90) days prior to application. Second preference shall be given to applicants who reside elsewhere, but are employed full-time in Wasatch County. Third preference shall be given to applicants who neither work nor live in Wasatch County.

(15) Resort Development. A mixed use development consisting of a group or groups of buildings containing more than five (5) dwelling units and/or guest rooms and providing recreational activities that may include skiing, golf, horseback riding, swimming, tennis, spa, and similar activities. A resort may furnish services customarily furnished by a hotel, including a restaurant, cocktail lounge, and convention facilities.

(16) Seasonal Employee Housing Unit. A dwelling unit with the primary purpose of providing housing for seasonal employees of a Resort Development. Except for off-season incidental use, the unit shall not be leased or rented for any period less than thirty (30) consecutive days, and shall be rented only to tenants who are full-time or seasonal employees of the Resort Development shall be allowed provided that such rental does not exceed a total of ninety (90) days per annum. Seasonal Employee Housing Units provided on site for employees may include the following types:

- (a) Dormitory;
- (b) Efficiency Unit;
- (c) One (1), two (2), or three (3) bedroom apartments no larger than one thousand (1,000) square feet.

Section 16.30.11 Ordinance 02-01

Ordinance 02/01 (enacted 01/17/02) was codified as part of this amendment.