

ORDINANCE NO. 1

SERIES OF 2021

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO AMENDING SECTION 070.070.030 AND ADDING A NEW ARTICLE 070.045 OF TITLE 070 TO THE GLENWOOD SPRINGS MUNICIPAL CODE FOR THE PURPOSE OF ADOPTING INCLUSIONARY ZONING FOR AFFORDABLE HOUSING.

WHEREAS, the City of Glenwood Springs (“City”) is a legal and political subdivision of the State of Colorado for which the Glenwood Springs City Council (“City Council”) is authorized to act; and

WHEREAS, the City is authorized by the Local Government Land Use Control Enabling Act of 1974, §29-20-101 through §29-20-108, C.R.S., as amended, and §31-23-301, C.R.S., as amended, to plan for and regulate the use of land within the City’s jurisdiction, and to enact zoning, subdivision, and other land use and development regulations; and

WHEREAS, §31-23-304, C.R.S., provides that the City shall provide for the manner in which its land use and development regulations are amended, supplemented, or changed; and

WHEREAS, the Planning Commission at a duly noticed public hearing on January 23, 2021 considered the Zoning Code amendments and provided a recommendation to the City Council; and

WHEREAS, the City Council at duly noticed public hearing on February 18, 2021 considered the proposed Code amendments and recommendation of the Planning Commission and determined that the amendments are in the best interest of the public health, safety and welfare of the citizens of the City and conformed in all respects to the Glenwood Springs Municipal Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Title 070 of the Glenwood Springs Municipal Code is hereby amended as set forth in **Exhibit A** attached hereto.

Section 3. Any ordinances or resolutions or parts thereof, which are in conflict with this ordinance, are hereby repealed to the extent of such conflict only.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED BY TITLE ONLY
THIS 18 DAY OF FEBRUARY 2021.

CITY OF GLENWOOD SPRINGS, COLORADO



Jonathan Godes, Mayor

ATTEST:

Ryan Muse, City Clerk

INTRODUCED, READ ON SECOND READING, PASSED AND ORDERED
PUBLISHED BY TITLE ONLY TO BE EFFECTIVE IMMEDIATELY THIS 1 DAY OF APRIL
2021.

CITY OF GLENWOOD SPRINGS, COLORADO



Jonathan Godes, Mayor

ATTEST:

Ryan Muse, City Clerk

EXHIBIT A

The following sections of the Municipal Code are amended as follows with double underlined text added and ~~strike through text deleted~~.

The following definitions will be added to 070.070.030 – All Other Terms Defined

For the purposes of this Title, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

* * *

Area median income (AMI) means the median household income estimates and program income limits compiled and released annually for Garfield County by the United States Department of Housing and Urban Development (HUD).

* * *

Community housing or Community Housing Unit– A Residential dwelling unit within the City of Glenwood Springs that is deed restricted in accordance with this Article and the City of Glenwood Springs’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the City Council, and in accordance with a deed restriction approved by the City of Glenwood Springs City Council or its designee.

Community housing rental unit means a community housing unit that is deed-restricted in accordance with this Article and the City of Glenwood Springs’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the City Council, and in accordance with deed restrictions approved by the City of Glenwood Springs City Council or its designee, to establish a maximum rental prices, as well as residency, employment and income qualifications for owners and occupants.

Community housing residency requirements and guidelines means the requirements adopted by resolution by the City Council, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent Community Housing Units; the requirements (e.g. residency) for qualifying to own or rent Community Housing Units; forms of approved deed restrictions; limitations on appreciation of sales prices of Community Housing; procedures for sale of Community Housing; priorities for persons bidding to purchase Community Housing Units; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new Community Housing Units; and possible incentives for the construction of Community Housing. The Community Housing Residency Requirements and Guidelines, and amendments

thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.

Community housing for sale unit means a community housing unit that is deed-restricted in accordance with this Article and the City of Glenwood Springs's Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the City Council, and in accordance with a deed restrictions approved by the City of Glenwood Springs City Council or its designee to establish maximum initial sales and resale prices, as well as residency, employment and income qualifications for owners and occupants.

* * *

Deed restriction means a contract entered into between the City and the owner or purchaser of real property identifying the conditions of occupancy and resale.

* * *

Employee/Qualified resident means 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 thirty (30) hours per week for a minimum of ten (10) months per year, physically working the Employment Area and who resides in the Community Housing Unit as their sole and exclusive place of residence a minimum nine (9) months of a twelve (12) month period. Priority will be given to employees/qualified residents employed within the City of Glenwood Springs boundaries or someone who has receive a local employment exemption pursuant to the Community Housing residency requirements and guidelines.

Employment area means Glenwood Springs municipal boundary.

* * *

Gross income means the total income, including alimony and child support, derived from a business, trust, employment, Social Security Benefits of any type and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

* * *

Inclusionary community housing means the policy of requiring community housing in residential developments to ensure adequate housing stock for local residents and to maintain or increase the current ratio of primary to second home ownership in the City of Glenwood Springs.

Initial sales price means the maximum price for which a price capped community housing for sale unit may be initially sold.

* * *

Resident occupied community housing means housing with a deed restriction recorded against it requiring that it be owned or occupied by an Employee/Qualified Resident as its Primary Residence as set forth in this Article and the City of Glenwood Springs Housing Residency Requirements and Guidelines.

* * *

A new Article 070.045 of Title 070, Glenwood Springs Municipal Code, is hereby adopted to read as follows.

ARTICLE 070.045– Community Housing Standards and Guidelines – Administration.

070.045.010. – Title.

070.045.020 - Purpose

- (a) Purpose. The purpose and intent of the regulations set forth in this Article is to increase affordable housing choices for year-round residents and to preserve a balance between second homeowners and locals.

070.045.030 - Applicability.

These requirements for Community Housing shall apply to all residential and mixed-use developments proposing the construction of ten (10) or more new dwelling units, or the creation of ten or more residential lots, within the corporate limits of the City of Glenwood Springs after the effective date of these regulations. Incentives for Community Housing shall also apply to all residential developments over one (1) dwelling unit.

070.045.040 - Administration.

- (a) The Planning Director shall be responsible for the administration of these regulations, and he or she shall have the authority and duty to:
 - (1) Exercise administration of this Article or any guidelines thereof pertaining to all building and developments where applicable.
 - (2) Enforce all terms of this Article or any guidelines thereof.
 - (3) Review and recommend approval or denial of all housing mitigation plans submitted in accordance with this Article or any guidelines thereof.
- (b) The Planning Director may also enter into contracts with other agencies, including regional housing authorities, to administer this Article or any guidelines thereof, subject to approval of the City Council.

070.045.050. - Relationship of regulations to other requirements.

Whenever these regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of the City, the enactment imposing more restrictive standards or requirements shall control.

070.045.060. - Guidelines for implementation.

- (a) This Article has been implemented in accordance with guidelines adopted by the City Council. The guidelines may be amended from time to time and shall include the following components:
 - (1) Guidelines for the type, size and price for community housing units;
 - (2) Guidelines for qualifications to purchase and occupy community housing units; and
 - (3) Guidelines for the purchase or sale of community housing units.
- (b) The guidelines will provide all general information necessary for the implementation and administration of this Article.

070.045.070 – Mitigation for Residential Developments.

All new residential subdivisions and all new multi-family residential developments shall set aside lots or units for community housing as set forth in this Section.

- (a) Twenty (20%) percent of the total residential units in any new residential or mixed-use development proposing to create ten (10) or more residential dwelling units shall be deed restricted for Resident Occupied Community Housing.
- (b) Ten (10%) percent of the total residential units in any new residential or mixed-use development proposing to create ten (10) or more residential dwelling units shall be deed restricted to limit the average Initial Sales Price to no greater than that which is affordable to Households earning no more than 100% AMI; or to limit the Community housing rental unit rental prices in accordance with guidelines established by the City and generally set at rates that are affordable to Households with incomes no higher than 100% AMI, averaged over the total required deed restricted units.
- (c) Fractional remainders. The development's mitigation responsibility will be rounded to the nearest whole number: below 0.75 round down (= 0 unit) and round up from 0.75 and higher (= 1 unit).

- (d) In lieu of the requirements of subsections (a) and (b) of this section, the development may meet mitigation requirements through a donation of land in an amount determined by the City Council meeting the following requirements:
 - (1) Land shall be free of all liens and encumbrances and shall be conveyed by general warranty deed.
 - (2) Land shall be properly entitled and capable of supporting the applicable number of Community Housing units.
 - (3) Land shall be buildable, have suitable soils and drainage and available utilities, and should not be within an area that has potential geologic hazards associated with development.
- (e) The development may provide up to 50% of the required mitigation through the restriction of existing units.

070.045.080 – Incentives for Residential Developments (Inclusionary Housing) Over One (1) Dwelling Unit.

- (a) Any residential or mixed-use development proposing to create one (1) or more residential dwelling units may be eligible for the following incentives when providing deed restricted Community Housing in the form of Resident Occupied Community Housing, For Sale Community Housing and/or Rental Community Housing that is deed restricted in accordance with the City's Community Housing Standards and Guidelines.
 - (1) Density Bonus. As part of any new residential or mixed-use development, the City may offer a density bonus.
 - (2) Site Design Flexibility. Provided that the housing goals and eligibility requirements are met and provided that the intents and purposes of this Title are not compromised, the City may consider flexible application of design standards including, but not limited to minimum lot size, building height, lot coverage, impervious coverage, setbacks and landscaping.
 - (3) Public-Private Partnerships. The City may participate in, or facilitate participation with other governmental entities regarding financing or purchasing of Community Housing units directly from the applicant or by other means of subsidy or participation.
 - (4) Tax Rebate or Reduction. The City Council may at its sole discretion waive, reduce or rebate property, construction use, or other tax applicable to the project.

070.045.090. – Acceptable Methods of Community Housing Mitigation

The following methods are provided for an applicant to comply with this Article:

- (a) Provision of Price Capped for Sale Deed Restricted Community Housing with an average maximum Initial Sales Price set at or below 100% AMI affordability level.
- (b) Provision of Resident Occupied Deed Restricted Community Housing for Rental and For Sale Community Housing Units.
- (c) Conveyance of land to the City in lieu of community housing in an amount determined by the City Council.

070.045.100. - Minimum requirements.

- (a) Deed restrictions. Any community housing required by this Article shall be deed-restricted in accordance with a form of deed restriction enforceable in the State, as approved by the City Attorney, to rental or ownership and occupancy by the project developer or to persons who live or work in the City. Deed restrictions shall be prepared in accordance with the community housing guidelines.
- (b) Housing guidelines. The units shall be developed and shall comply with the size, design and occupancy standards established within the community housing guidelines.
- (c) Timing of occupancy. The units shall be ready for occupancy no later than the occupancy of free market units within the project. If the free market units are to be developed in phases, then the community housing units can be developed in proportion to the phasing of the free market units.

070.045.110. – Housing Plan.

For all projects subject to the requirements for Community Housing, a housing plan shall be submitted as a component of the land use application. For those projects subject to the requirements for Community Housing, land use applications will not be deemed complete without the submission of a Housing Plan. Execution of the Housing Plan shall be a condition of approval for the development permit and shall include, at a minimum, the following information as deemed applicable by the Planning Director:

- (a) Total number of market rate units and Community Housing units proposed in the development;
- (b) Details regarding how the Standards and Guidelines will be met, including unit types, square footage, number of bedrooms per unit, targeted income category, and Initial Sales Price;
- (c) Any proposed alternative method(s) of compliance with the Standards and Guidelines.

070.045.120 - Affordable and Workforce Housing.

(a) *In General.* Reserved.

(b) Voluntary Provisions.

(1) Deed-Restricted Development.

- a. Applicability. Any new development of for-rent residential units in the City not otherwise required to provide housing mitigation may voluntarily with the City enter into an affordable housing deed-restriction agreement consistent with the terms and conditions of this Subsection 070.045.120(b)(1).
- b. Deed Restriction. The deed restriction provided for in this Subsection shall be recorded by the owner of the property burdened thereby and remain a covenant and restriction running with the property for a period of thirty (30) years unless otherwise terminated.
- c. Affordability.
 1. The gross rental price, including utility allowance and non-optional fees, of any deed-restricted unit shall not, at the time of leasing, exceed the maximum rents established according to Colorado Housing and Finance Authority, Colorado County Income and Rent Table, for one hundred twenty (120) percent of the Garfield County Area Median Income.
 2. The average of all deed-restricted units in a development shall not exceed one hundred (100) percent of the maximum rents established according to the Colorado Housing and Finance Authority, Colorado County Income and Rent Table, as determined at the time each individual unit was leased.
- d. Impact Fees. The deed restriction shall provide for a waiver of the following impact and improvement fees required by this Code according to the percentage of new for-rent units restricted thereby:
 1. Any water or sewer tap fee required under 080.040.010(c) or 080.030.010(c), respectively.
 2. Any water or sewer system improvement fee required under Article 080.060.

3. Any school land dedication required under Subsection 070.040.030(g)(4), School Land Dedication.
4. Any fire and emergency service impact fees required under Subsection 070.040.030(g)(5), Fire and Emergency Services Impact Fee.
5. Any parkland dedication fees required under 070.040.030(g)(2), Parkland Dedication.

Said fees shall be calculated and determined prior to development and remain unpaid, in abeyance, to be depreciated over a period of thirty (30) years from the issuance of a certificate of occupancy for the unit(s) in accordance with the following schedule:

- i. Years 0-5 0% depreciation
 - ii. Years 6-10 20% depreciation
 - iii. Years 11-30 straight line depreciation from 21% to 100%
6. Any restricted party that knowingly fails to adhere to the requirements of the deed restriction or this Subsection 070.045.120(b)(1) for any portion of a year shall be required to immediately pay the remaining un-depreciated impact and improvement fees upon thirty (30) days' written notice from the City. The restricted party's failure to pay such amount upon notice shall result in an automatic lien upon the property plus a penalty of ten (10) percent of the amount owed, plus the reasonable costs of fees, including attorney fees, spent in collection. Said lien shall thereafter be collected as provided in Section 080.010.100 of the Code.

e. Occupancy Requirement.

1. Primary occupants shall sign an affidavit of qualification and be qualified to rent a deed-restricted unit under this Subsection 070.045.120(b)(1) according to any of the following criteria:
 - i. Employed to primarily work at a physical location within the 81601 postal zip code;
 - ii. Directly employed by a company that has its principal office located within the 81601 postal zip code;
 - iii. Enrolled as a full-time student at a local educational institution;

- iv. Being sixty-five (65) years of age or greater; or
- v. Receiving social security disability benefits.

Qualifying occupants may have roommates not employed within the 81601 postal zip code or by a company not having its principal office within the 81601 postal zip code.

- 2. No occupant of a deed-restricted unit shall engage in any business activity on or in the unit, except as allowed under Subsection 070.030.040(d)(3), Home Occupations, of this Code.
 - 3. In the rental and occupancy of the units, there shall be no discrimination on the basis of age, race, creed, color, sex, sexual orientation, disability, religion, national origin, marital status, gender identity, or affiliation.
 - 4. When a unit becomes vacant, the owner shall promptly make it available and actively market said unit for lease to another qualified occupant in accordance with the deed restriction and any rental guidelines adopted by the City.
 - 5. Each unit shall only be leased and occupied by residents who will utilize the unit as his or her principal place of residence. A "principal place of residence" shall mean the dwelling in which one's habitation is fixed and to which a person, whenever he or she is absent, has a present intention of returning after a departure or absence there from.
 - 6. In the event the employment or student enrollment status of the occupant of any unit is altered so as to no longer meet the qualifications of this Subsection, said occupant shall be permitted to reside in the unit under the same terms and conditions of the unit lease, except that no extension of the lease term shall be granted.
- f. *Market Conversion.* The owner of a deed-restricted unit may convert a unit to rent or sale at market rate upon written notice to the City. Upon market conversion, the owner shall record an amendment to the deed restriction for the termination thereof. Upon the first rental or sale of any such converted unit, the owner shall pay to the City the amount of any and all proportional, amortized, and depreciated impact and improvement fees then outstanding.
 - g. *Reporting Requirement.* The owner of a deed-restricted unit shall annually, between December 1 and December 15, provide a report and proof to the City or its designated representative agency of its compliance with the rental

requirements set forth in this Subsection for the prior twelve-month period. Said report shall contain, at a minimum:

1. The number of deed-restricted units rented pursuant to this Subsection;
2. The period each unit was rented and the status by which the were occupant(s) qualified under the deed restriction;
3. The monthly rental price; and
4. The taxes, special assessments, and homeowners' association and management fees, and any other fees or charges, including common utilities, assessed to each unit.

(c) *Housing Units Developed Under Prior Inclusionary Housing Program.* All housing units developed under the provisions of the inclusionary housing program repealed by Ordinance 21, Series of 2017, shall remain subject to the terms and conditions of approval previously agreed upon, including the applicability of the Glenwood Springs Community Housing Guidelines as administered by the Garfield County Housing Authority.