

Eagle County Affordable Housing Guidelines

August 1, 2023

Table of Contents

Chapter 1 – Need and Purpose of These Guidelines	3
1.01 Eagle County’s Need for Housing	3
1.02 Purpose of the Guidelines	5
1.03 Applicability	6
1.04 Eagle County Affordable Housing Guidelines: Administrative Procedures	6
Chapter 2 – Definitions	6
Chapter 3 – Requirements for Affordable Housing	8
3.01 Mitigation for Residential Developments (Inclusionary Housing)	9
3.02 Mitigation for Non-Residential (Non-Residential Mitigation)	9
3.03 Mixed Use Developments	9
3.04 Small Residential Developments	9
3.05 Residential Lots	10
Chapter 4 – Acceptable Methods of Affordable Housing Mitigation	10
4.01 Price Capped For Sale Housing	11
4.02 Affordable Rental Housing	11
4.03 Resident Occupied For Sale Housing	11
4.04 Land Donation	12
4.05 Off Site Development	12
4.06 Payment in Lieu	12
4.07 Affordable Housing Credits	13
4.08 Other Public Benefits	13
4.09 Price Gap Funding for Habitat For Humanity	13
4.10 Other Public Benefits	14
Chapter 5 – Housing Plan	14
Chapter 6 – Miscellaneous Provisions	15
6.01 Deed Restrictions	15
6.02 Unit Quality and Design	15
6.03 Affordable Housing Bedroom Mix and Size	16
6.04 Initial Sales and Marketing of Affordable Housing Units	16
6.05 Timing of Affordable Housing	16
6.06 Replacement Housing	16
6.07 Incentives for Exceeding the Guidelines	16
6.08 Liberal Construction	17
6.09 Severability	17
6.10 Modification	17

Chapter 1 – Need and Purpose of These Guidelines

1.01 Eagle County's Need for Housing

Eagle County faces a gap in the availability of ownership and rental housing that is affordable for local residents. Residents are burdened by high housing payments. Employees are forced to commute long distances. Overcrowding and substandard living conditions are common. The short term rental and second home owner markets are increasingly popular, so put additional pressures on the primary resident housing inventory. According to the annual workforce survey, employers believe that the availability of workforce housing is a critical or major problem in Eagle County. The most recent survey, conducted in early 2020, shows two thirds of employers believe that finding housing is difficult for their employees. These findings have been consistent over the last 10 years.

Housing problems have long been recognized in Eagle County. Eagle County commissioned housing needs assessment studies, which were completed in 1990, 1999, 2007, 2012 and 2018, which demonstrate these housing needs for primary residents. As detailed more fully in Eagle River Valley Housing Needs and Solutions 2018 report, the current state of Eagle County's housing need is as follows:

- 2019 estimates show Eagle County has 34,091 housing units. Of these, 19,632 are considered primary residents¹;
- The 43% of units not occupied as primary residences are typically owned by second homeowners for seasonal and recreational uses;
- Approximately 6,150 primary households (35%) pay more than 30% of their income for housing, 48% of renters and 29% of owners, making it difficult for those Households to pay for other necessities, like food, utilities, transportation, and health care;
- Since 2007, median household income has increased 6% while home prices increase 20% and rental rates have increased 48%;
- 9% of the workforce commutes from outside the valley;
- In 2019, unemployment in Eagle County was 2.4%.
- Eagle River Valley employees have a weekly wage \$220 lower than employees in Colorado overall.

The following bullets highlight the need for additional housing units based upon the Eagle River Valley Housing Needs and Solutions 2018 report:

- In 2020, the total housing need is projected at 4,030 homes. The gap not served by the market (requiring a subsidy) is estimated around 2,450;
- By 2030, the total housing need is projected to reach 7,970 homes.
- Growth in the number of retirees staying in place generates the demand for 110 housing units annually; and

¹ Primary Secondary Residential Housing Analysis_June 2019

- The fastest growing occupations will continue to be in the accommodations, food service, and retail sectors. These jobs typically pay wages below \$31,000/year or about 50% AMI for a single person.
- Many municipalities throughout the valley have their own housing programs, which work to increase the supply of housing units for employees through various methods.

Approximately 17% of Eagle County's population resides in the Roaring Fork Valley, mainly in the Town of Basalt and the El Jebel area. The Roaring Fork Valley faces similar challenges to the Eagle River Valley in providing housing for its residents. The following bullets highlight the need for additional housing units in the Carbondale and Basalt areas, which include Eagle County communities in the Roaring Fork Valley, based upon the Greater Roaring Fork Regional Housing Study 2019 report:

- In 2017, the Basalt area had a need of 956 units priced for incomes 80% AMI and below. By 2027, the need is estimated to grow to 1,614 units priced for incomes 120% AMI and below.
- In 2017, the Carbondale area had a need of 591 units priced for incomes 60% AMI and below. By 2027, the need is estimated to grow to 615 units at 60% AMI, 128 units between 60-80% AMI, 52 units between 101-120% AMI and 264 units 121-140% AMI.

Despite the documented demand for workforce housing units, private developers have little incentive to provide housing for Households with incomes of 100% or less of the Area Median Income because responding to demand for high end and second homes is more profitable. The exceptional quality of life, natural beauty and abundance of recreation opportunities in Eagle County, coupled with limited land resources, means that demand for and availability of housing will continue to keep prices beyond the reach of median income Households.

The Eagle County Comprehensive Plan² (the "Comprehensive Plan"), adopted December 7, 2005, acknowledged the many negative implications of an imbalance between the amount of housing needed to sustain Eagle County's workforce and the supply of housing that employees can afford. Eagle County's labor shortages and forced commuting to homes outside of Eagle County materially degrade quality of service, the economy, the natural environment, traffic, and the character of local communities.

The Comprehensive Plan delineates two primary goals regarding housing:

1. Housing is available and affordable for no less than 70% of Eagle County's workforce.
2. Housing needs are clearly identified, and housing types are appropriately balanced to meet all community needs, appropriately located to reduce long distance commutes, and appropriately managed to assure long term affordability for Eagle

² www.eaglecounty.us/planning

County's workforce.

The Comprehensive Plan contains 16 policies for housing with 88 specific strategies recommended to implement them. The strategies seek to divide the responsibility for housing calling upon Eagle County's municipalities, private developers, non-profit organizations, financial institutions, and employers to work with Eagle County Government to achieve the housing goals. For example, Policy N of the Comprehensive Plan provides that development should share responsibility for fulfilling Eagle County's workforce housing needs. Associated strategies include:

- Mandate that attainable workforce housing be considered part of the required infrastructure for all new development applications.
- Continue to utilize inclusionary housing and commercial mitigation as defined in the housing guidelines in the review of development applications.

1.02 Purpose of the Guidelines

The Eagle County Affordable Housing Guidelines (the "Guidelines") are intended to promote sustainable communities in Eagle County through the creation of ***permanently affordable housing stock***. The Guidelines recommend the provision of For Sale Housing for Households earning between 100%-140% of the area median income ("AMI"), which are households that have little or no opportunity to purchase market rate housing without significant subsidy. The Guidelines encourage the building of rental units that are affordable to Households earning 100% or less of AMI. The Guidelines also offer options for providing housing priced for local residents with incomes greater than 140% AMI since market rate housing opportunities for these Households are also limited in terms of unit type and location.

The Guidelines³ will assist in implementing specific strategies of the Comprehensive Plan that call for private development to share in the responsibility for keeping up with future demand for workforce housing by including such housing in all new residential and commercial growth. The Guidelines are one part of Eagle County's broader solution of making housing available and affordable to Eagle County's growing workforce, retirees, and special needs populations.

Through the Guidelines, Eagle County seeks to reduce the number of Cost Burdened Households (as defined below) in the county, maintain the relationship between Primary Residences (as defined below) and vacation homes, preserve community character and vitality, and keep the negative impacts associated with a commuting workforce from worsening. It is Eagle County's belief that jobs and housing should be located in close proximity whenever possible.

³ Terms that are capitalized in Chapter 1 are defined in Chapter II, below.

1.03 Applicability

The Guidelines set forth the minimum recommendations for housing mitigation for Development Permits (as defined below) for all Non-Residential Development that creates more than three jobs and all Residential Development which would result in the creation of more than three residential units or lots which are located in unincorporated Eagle County. Governmental and nonprofit entities must also meet these Guidelines when seeking approval for Development Permits. Provision of a Housing Plan (see Chapter 5) that meets the minimum recommendations of these Guidelines does not ensure that an application for a Development Permit will be approved by the County.

1.04 Eagle County Affordable Housing Guidelines: Administrative Procedures

The Eagle County Affordable Housing Guidelines: Administrative Procedures (the "Administrative Procedures") is the document that provides the technical procedures for developing, purchasing, owning, selling, and renting Affordable Housing (as defined below). The Administrative Procedures includes specific eligibility criteria, AMI levels, purchase prices and rents, sale and leasing procedures, payment in lieu calculations, employment generation rates and other information relevant to the development and operation of Affordable Housing. The Administrative Procedures are to be read in conjunction with the Eagle County Affordable Housing Guidelines, and are updated annually.

Chapter 2 - Definitions

The terms, phrases, words, and clauses in the Guidelines shall have the meaning assigned below. Any terms, phrases, words, or clauses not defined herein will have the meanings as defined in the Eagle County Land Use Regulations or the Eagle County Affordable Housing Guidelines: Administrative Procedures.

Affordable Housing: All deed restricted housing units regardless of price. Units may include Price Capped For Sale Housing, Price Capped Rental Housing, Resident Occupied For Sale Housing, and Resident Occupied Rental.

Affordable Housing Credits: Credits that exist and may be awarded in the BoCC's sole discretion for Projects that exceed the requirements standards set forth in the Guidelines and which may be bought, sold and accepted as a mitigation method pursuant to the Guidelines.

Affordability Gap: The difference between the median home price in each Eagle County community (as defined by zip code) and the average buying power of a typical household in that community, as provided for in the Administrative Procedures.

Area Median Income ("AMI"): The estimates of median household income compiled and released annually by the United States Department of Housing and Urban Development.

Board of County Commissioners ("BoCC"): The Board of County Commissioners for Eagle County, Colorado.

Comprehensive Plan: The plan officially adopted by Eagle County that sets forth the recommendations and policies for guiding future growth and development, while providing for the public's health, safety, and general welfare. The Comprehensive Plan also incorporates community sub area plans adopted for particular areas of the county and functional plans, such as those addressing particular issues of concern to the county (trails, open space, housing, etc.)

Cost Burdened Household: A Household that is paying more than 30% of its income for housing costs.

Development Permit: Any preliminary or final approval of an application for rezoning, planned unit development, amendment of an existing planned unit development, special use permit, subdivision, or similar application for new construction. Applications for a building permit where no previous approval included Affordable Housing mitigation shall not be considered a Development Permit for the purpose of these Guidelines.

Eagle County Housing and Development Authority ("ECHDA"): A body corporate and politic whose primary purpose is to increase the supply of Affordable Housing in Eagle County.

Eligible Household: A Household that meets the criteria set forth in the Administrative Procedures.

Household: All individuals who will occupy a unit regardless of legal status or relation to the owner or lessee.

Housing Plan: A written plan submitted to Eagle County describing how the applicant will satisfy the minimum recommendations of the Guidelines.

Inclusionary Housing: The provision of Affordable Housing in Residential Developments to ensure adequate housing stock for local residents and to maintain or increase the current ratio of primary to secondary home ownership.

Initial Sales Price: The maximum price for which a Price Capped For Sale Housing unit may be initially sold, as provided for in the Administrative Procedures.

Land Use Regulations: The regulations officially adopted by Eagle County, which govern land use in unincorporated areas of Eagle County.

Maximum Rental Rate: The maximum monthly rent payment for an Price Capped Rental Housing unit, as provided for in the Administrative Procedures. All ongoing fees required to be paid by the resident (including but not limited to utilities and mandatory parking fees) must be included within the Maximum Rental Rate.

Non-Residential Development: Any development that is not a Residential Development that would result in the creation of more than three jobs and for which a Development Permit is required. Institutional uses such as government buildings, schools, hospitals, churches and other religious institutions, and facilities operated by non-profit service agencies are considered Non-Residential Development for purposes of these Guidelines.

Non-Residential Mitigation: The provision of Affordable Housing to house employee growth generated by Non-Residential Commercial Development.

Off Site Development: The development of Affordable Housing units in a location outside

of the Project boundaries.

Other Public Benefits: Items that may, in the BoCC's sole discretion, offset a portion of a Project's recommended Affordable Housing mitigation.

Payment in Lieu: A payment made to the ECHDA to satisfy a Project's recommended Affordable Housing mitigation.

Price Capped For Sale Housing: Housing subject to a deed restriction requiring that the Housing meet Initial Sales Prices, resale price appreciation limits, quality, and other criteria set forth in the Guidelines and Administrative Procedures.

Price Capped Rental Housing: Rental housing subject to a deed restriction requiring that the Housing meet Rental Rate Restrictions, quality, annual compliance and other criteria set forth in the Guidelines and Administrative Procedures.

Primary Residence: The residence in which an owner or renter lives for at least 9 out of any 12 months.

Program Administrator: The administrator of the Eagle County Affordable Housing Guidelines and Administrative Procedures. The Program Administrator shall be the Eagle County Housing Director unless the BoCC appoints another person.

Project: A Commercial or Residential Development for which a Development Permit is required.

Rental Rate Restrictions: The maximum rental rate for which a Price Capped Rental Housing unit may be leased, as provided for in the Administrative Procedures.

Resident Occupied For Sale Housing: Housing subject to a deed restriction requiring that the Housing be owned and occupied by an Eligible Household as its Primary Residence as set forth in the Guidelines and Administrative Procedures.

Resident Occupied Rental Housing: Rental housing subject to a deed restriction requiring that the Housing be occupied by an Eligible Household as its Primary Residence as set forth in the Guidelines and Administrative Procedures.

Residential Development: Any Project that would result in the creation of more than three residential units or lots and for which a Development Permit is required. Subdivided land resulting in parcels of at least 35 acres in size on which residential development is proposed consistent with applicable zoning is excluded from the definition of Residential Development.

Small Residential Development: A Residential Development comprising 4-10 residential units.

Sustainable Communities Index: A regulatory points-based finding for all new subdivisions, zone changes, and special uses that encourages compact, efficient, mixed use, pedestrian friendly design integrated with surrounding uses and which minimizes environmental impacts.

Square Footage: A calculation of size including all habitable interior space, excluding garages and mechanical spaces, measured from the exterior of the wall.

Chapter 3 –Recommendations for Affordable Housing Mitigation

3.01 Mitigation for Residential Developments (Inclusionary Housing)

In order to address the issue of Cost Burdened Households and slow the shift from primary to secondary home ownership, Eagle County has set the minimum recommended mitigation rate for Inclusionary Housing in Residential Developments at the higher of 1) 25% of the total residential units in a Project or 2) 15% of the total residential Square Footage of a Project. The mitigation calculation should be made using the total number of units or lots proposed in the Project.

This Inclusionary Housing mitigation rate is below the 57% of residential units in Eagle County that are currently occupied by local residents. Eagle County believes the lower mitigation rate is reasonable because not all local residents desire to live in Affordable Housing.

3.02 Mitigation for Non-Residential Developments (Non-Residential Mitigation)

To support persons employed by businesses and organizations located in new Non-Residential Development in locating affordable housing near their jobs, a new Non-Residential Development should mitigate the impact on Eagle County's housing stock by providing Affordable Housing for at least 45% of the new employees generated by the Project that will earn less than 140% of AMI. The Affordable Housing demand generated by a Non-Residential Development shall be determined by job creation. When the Non-Residential Development's building type and size is known, the job creation rate will be calculated with adjustments for multiple job holding, multiple employees per Household, and the average size of all deed restricted housing units throughout Eagle County, as provided for in the Administrative Procedures. When the Non Residential Development does not include a building or applicable type, Non Residential Developments will be required to provide a job generation analysis. No mitigation is required for existing jobs at the site to be developed. The Affordable Housing mitigation will be calculated in total Square Footage proposed in the Project. The applicant can choose to provide the total Square Footage in any combination of size and number of units subject to section 8.03 of the Guidelines.

This 45% mitigation rate is less than the percentage of cost burdened renters in Eagle County.

3.03 Mixed Use Developments

Eagle County typically encourages mixed-use developments. If both Non-Residential Mitigation and Inclusionary Housing apply because the application for a Development Permit contains a mix of Non-Residential Development and Residential Development, then the calculation (Non Residential Mitigation or Inclusionary Housing) that yields the higher amount of Affordable Housing units will apply.

3.04 Small Residential Developments

Small Residential Developments may be exempt from Inclusionary Housing requirements if

the Square Footage of the residential units in those developments is equal to or smaller than the average size of a deed restricted housing unit in Eagle County. The Inclusionary Housing mitigation will apply to the amount of Square Footage in excess of the average size of a deed restricted housing unit in Eagle County, as provided for in the Administrative Procedures. Accessory dwelling unit Square Footage will count in a unit's total Square Footage calculation, but will not be considered an additional unit, this is consistent with policies included in the Land Use Regulations.

3.05 Residential Lots

When an applicant for a Development Permit seeks only to create residential lots, the Inclusionary Housing mitigation should be based on the number of such lots, each of which will count as one unit.

Chapter 4 - Acceptable Methods of Affordable Housing Mitigation

In an effort to provide the flexibility necessary for the development industry, an applicant for a Development Permit may choose to meet the Guidelines in the following ways, all of which are subject to approval by the BoCC in its sole discretion.

1. **Price Capped For Sale Housing** with a maximum Initial Sales Price set at or below 100% - 140% AMI affordability level, subject to a deed restriction. Initial Sales Prices must vary within the range.
 - Price Capped For Sale units will be valued double (2x) when analyzing if/how Housing Plans meet recommended minimum mitigation rates.
2. **Price Capped Rental Housing** subject to a deed restriction requiring rents to be set at or below 80%-100% AMI affordability level. Rental rates must vary within the range.
 - Price Capped Rental units will be valued double (2x) when analyzing if/how Housing Plans meet recommended minimum mitigation rates.
3. **Resident Occupied For Sale Housing**, subject to a deed restriction limiting occupancy and resale without regard to AMI.
 - Resident Occupied For Sale units will be valued as one unit (1.0x) when analyzing if/how Housing Plans meet recommended mitigation rates.
4. **Resident Occupied Rental Housing**, subject to a deed restriction requiring occupancy only by eligible households.
 - Resident Occupied Rental units will be valued one-half (0.5x) when analyzing if/how Housing Plans meet recommended minimum mitigation rate
5. **Land Donation** as a donation of developable land to ECHDA within a reasonable vicinity of the applicant's project.
 - Land donation will be valued singularly (1.0x) when analyzing if/how Housing Plans meet recommended mitigation rates..
6. **Off Site Development** will be valued singularly (1.0x) when analyzing if/how Housing Plans meet recommended mitigation rates.

- Off site location may not have a higher Affordability Gap than the development site.
- 7. **Payment in Lieu** may be made to ECHDA.
- 8. **Affordable Housing Credits**, if available.
- 9. **Price Gap Funding**, as a provision of gap funding for Habitat for Humanity Vail Valley or Habitat for Humanity Roaring Fork Valley.
- 10. **Other Public Benefits** may be provided to offset some portion of Affordable Housing.

The BoCC, in its sole discretion, may approve additional methods of mitigation which the BoCC determines meet the purpose and intent of these Guidelines, including but not limited to a Project's provision of an on-going funding source to the Eagle County Housing and Development Authority.

Where a formula indicates that a portion of a unit is to be provided, an applicant may choose to either round up to the next whole number or make a corresponding payment in lieu for the portion of the unit required.

4.01 Price Capped For Sale Housing

Price Capped For Sale Housing should have the following characteristics:

- The Initial Sales Price no greater than that which is affordable to Households earning no more than 100%-140% AMI.
- The units should be a spectrum of types and sizes and should be consistent with market rate units and market demand, as such need is demonstrated by a recent market analysis.
- Deed restrictions shall be perpetual, in favor of ECHDA and shall include all material terms as outlined in the Administrative Procedures.

4.02 Price Capped Rental Housing

Price Capped Rental Housing should have the following characteristics:

- Rents are set at or below rates that are affordable to Households with incomes no greater than 80%-100% AMI.
- Prohibition on Short Term Rentals whose definition can be found in Administrative Procedures.
- Deed restrictions shall be perpetual, in favor of ECHDA or other acceptable agency such as the Colorado Housing and Finance Authority or the US Department of Housing and Urban Development, and shall include all material terms as outlined in the Administrative Procedures.

4.03 Resident Occupied For Sale Housing

Resident Occupied For Sale Housing should have the following characteristics:

- Sales prices for Resident Occupied For Sale Housing are not limited.

- A spectrum of unit sizes and pricing responsive to market demand is encouraged.
- Deed restrictions shall be perpetual, in favor of ECHDA and shall include all material terms as outlined in the Administrative Procedures.

4.04 Resident Occupied Rental

Resident Occupied Rental Housing should have the following characteristics:

- Rental rates for Resident Occupied Rentals are not limited
- Occupants for Resident Occupied Rentals must be Eligible Households
- Prohibition on Short Term Rentals
- Deed restrictions shall be perpetual, in favor of ECHDA or other acceptable agency such as the Colorado Housing and Finance Authority or the US Department of Housing and Urban Development, and shall include all material terms as outlined in the Administrative Procedures.

4.05 Land Donation

An applicant may satisfy its Affordable Housing mitigation through a conveyance of land to ECHDA. The BoCC, in its sole discretion, will decide whether to accept land offered in lieu of an applicant's Affordable Housing mitigation.

The land conveyed should have the following characteristics:

- Land shall be free of all liens and encumbrances upon transfer to ECHDA.
- The Land should be capable of supporting the applicable number of Affordable Housing units.
- Land should be located close to job centers, walkable, and walkable to transit and reduce environmental impacts.
- Land should be buildable, have suitable soils and drainage, and should not be within an area that has potential geologic hazards associated with development.
- Land should serve the needs of Affordable Housing residents for reasons including, but not limited to conformance with comprehensive and master plans, high scoring on the Sustainable Community Index, site location, and proximity to public transit.
- The BoCC may consider a redevelopment opportunity under the Land Donation mitigation type.

4.06 Off Site Development

Affordable Housing should generally be provided on site. However, exceptions to this preference include Project sites in rural locations inconvenient to employment centers and public transit, or Non-Residential Development that involves hazardous substances and impacts not compatible with residential uses and affordable housing partnership opportunities. The applicant may also propose to locate Affordable Housing off-site if the off-site location has a higher Affordability Gap than the Project site. The Affordability Gap is provided in Administrative Procedures.

Applicants are strongly discouraged from proposing off-site Affordable Housing primarily to

reduce costs.

4.07 Payment in Lieu

An applicant may satisfy all or part of its Affordable Housing mitigation by making a Payment in Lieu of providing the units. The Payment in Lieu will be calculated as follows:

- The Payment in Lieu represents the difference between prevailing market prices in Eagle County and the maximum Initial Sales Price at 100% AMI, plus a 15% administrative fee.
- The Program Administrator should update these requirements annually based on the prior year's median sales price per square foot, the current maximum Initial Sales Price for a family of three earning 100% AMI, and the average size of all existing deed restricted housing units throughout Eagle County.
- The purpose of the administrative fee is to offset the increased cost to ECHDA of managing the development of Affordable Housing.

The Payment in Lieu amount shall be set at the time of approval of the application and shall be included in the Housing Plan. All Payment in Lieu amounts shall be paid to ECHDA prior to the issuance final plat for the Project.

4.08 Affordable Housing Credits

Applicants who build more than the minimum amount of Affordable Housing required by the Guidelines may be awarded, in the BoCC's sole discretion, Affordable Housing Credits ("Credits") that can be used to offset future Affordable Housing obligations.

- Credits may be awarded in an amount equal to the amount of Affordable Housing Square Footage supplied in excess of the minimum amount of Affordable Housing required.
- Credits can only be redeemed in the same sub area master planning area as the previously built Affordable Housing.
- Credits will only be awarded, if at all, when the Affordable Housing is complete. The applicant must provide a certificate of occupancy and proof of occupancy by an Eligible Household prior to issuance of the Affordable Housing Credits by Eagle County.
- Credits shall have an expiration date 5 years from issuance.
- Credits are transferable.
- Affordable Housing Credits existing at the time of the approval of these Guidelines can be redeemed in any location within unincorporated Eagle County.

4.09 Price Gap Funding for Habitat For Humanity

Applicants may provide Price Gap Funding to Habitat for Humanity. The price gap is the difference between the Maximum Initial Sales Price which is affordable to households earning 100% AMI and Habitat for Humanity's initial price capped sales price. The price gap will be calculated by Habitat for Humanity and ECHDA will approve of the methodology and calculation of the price gap.

- Applicants developing in the Eagle River Valley may only provide price gap funding to Habitat for Humanity Vail Valley. Applicants developing in the Roaring Fork Valley may only provide price gap funding to Habitat for Humanity Roaring Fork Valley.
- The Price Gap Funding should provide the funds to develop enough units to meet recommended minimum mitigation rates.
- The BoCC, at its sole discretion, may award additional value to Habitat for Humanity units for achieving a more affordable initial sales price.
- Habitat for Humanity units funded by Price Gap Funding should be constructed as concurrently as possible with the applicant's project.

4.10 Other Public Benefits

The BoCC, in its sole and exclusive discretion, may consider Other Public Benefit proposals to offset an applicant's Affordable Housing mitigation.

- No more than 30% of recommended Affordable Housing mitigation may be offset by Other Public Benefits.
- To be counted as Other Public Benefits, an applicant should show that its proposal is not solely for the use of the Project's residents or owners. Project amenities (parks, open space, recreation path, health/fitness centers, pools intended only for project use) will not be counted as Other Public Benefits.
- Other Public Benefits should be over and above what is otherwise required to obtain approval of the Project, including but not limited to the Sustainable Community Index, as may be amended from time to time.
- Other Public Benefits may include but are not limited to public parks and trails that close an existing gap in connectivity, opportunities for local food production, access to streams, rivers and public lands in locations with minimal to no access, rehabilitation and preservation of rivers and public lands and opportunities for educational programs including those in underserved and underrepresented communities.

Chapter 5 - Housing Plan

In order for an application for a Development Permit, which triggers the Housing Guidelines, to be deemed sufficient, an applicant shall submit a clear, concise, and complete Housing Plan, which has been approved by the Program Administrator. Compliance with the Housing Plan will be a condition of approval for the Development Permit.

At a minimum, the Housing Plan should contain the following information, as applicable:

1. Total estimated amount of Square Footage in any Residential Development;
2. Total estimated number of market rate units and Affordable Housing units.
3. Details regarding how the Guidelines will be met, including units types, Square Footage, number of bedrooms per unit, targeted income category, and Initial Sales Prices;

4. Total estimated Square Footage of any Non-Residential Development, estimated number of employees generated from the development, wage information regarding the jobs being generated;
5. Estimated average lot size of proposed Affordable Housing and average lot size of market rate housing units, as applicable;
6. Estimated location of proposed Affordable Housing within the Project, by unit type and size;
7. Estimated proposed production schedule of Affordable Housing and market rate units, including issuance of building permits or other acceptable triggers;
8. Concept for marketing to Eligible Households that may be eligible for the Affordable Housing;
9. Any proposed alternative methods of compliance with these Guidelines; and
10. Any other information deemed to be relevant by the Program Administrator.

The Housing Plan will be recorded against the Project property in the records of the Eagle County Clerk and Recorder at the time the Development Permit is granted. Any amendment of the Housing Plan will constitute an amendment to the Development Permit and would require BoCC approval.

Chapter 6 – Miscellaneous Provisions

6.01 Deed Restrictions

All Affordable Housing units shall be subject to deed restrictions, which shall be recorded in the records of the Eagle County Clerk and Recorder. All deed restrictions must comply with these Guidelines and the Administrative Procedures and shall be in a form approved by the Program Administrator and the Eagle County Attorney's Office.

6.02 Unit Quality and Design

Affordable Housing shall meet the requirements of all Eagle County Land Use Regulations and local building codes. Affordable Housing units should be architecturally compatible with surrounding uses. Exterior and interior finishes should not be substantially inferior to the materials used on market rate units. Provision of adequate storage space is strongly recommended and encouraged.

Enhancing the long term affordability of Affordable Housing through designs that reduce utility costs is strongly encouraged and conversely, amenities that are costly to operate are strongly discouraged. Units must meet minimum ECO Build Standards or other efficient building standards as might be amended and as provided for in the Eagle County Land Use Regulations. Affordable Housing design must address livability, maintenance, health, safety concerns, climate, lifestyle, and needs of the types of Households the units are intended to serve. To enhance livability, balconies, decks, small yards, or other onsite outdoor spaces are also encouraged.

Micro, shared, co-housing units and accessory dwelling units will be considered Affordable Housing Units under these Guidelines.

6.03 Affordable Housing Bedroom Mix and Size

While there are no specific bedroom mix or size requirements for Affordable Housing units, the applicant is expected to analyze market demand and to propose a mix that is responsive and appropriate to that demand. The bedroom mix and size will be approved by the Program Administrator as part of the Housing Plan. A market analysis should be provided to the Program Administrator prior to starting construction on the Affordable Housing units. Affordable Housing units larger than 3,000 Square Feet will only receive credit of 3,000 Square Feet when calculating Affordable Housing mitigation.

6.04 Initial Sales and Marketing of Affordable Housing Units

An applicant may be responsible for the initial sales and marketing of the Affordable Housing units in its Project or it may choose to contract with The Valley Home Store. The Program Administrator shall have the right to review the terms of each sale for compliance with the Guidelines.

6.05 Timing of Affordable Housing

All required Affordable Housing units should be provided prior to, or concurrently and proportionally with, the production of a Residential Development's market rate housing, or production of Non Residential Development as measured by recording of the Final Plat, unless an approved Housing Plan provides otherwise.

6.06 Replacement Housing

Applicants are prohibited from using units built as replacement of housing affordable to Households earning less than 100% AMI toward satisfaction of Inclusionary Housing or Non-Residential Mitigation requirements. Any such Affordable Housing destroyed in the development process should be replaced with units of similar affordability and size, in addition to the applicant's obligations under these Guidelines.

6.07 Incentives for Exceeding the Guidelines

If an applicant provides a combination of mitigation methods that exceed the minimum recommendations for Inclusionary Housing or Non-Residential Mitigation, the BoCC, in its sole discretion, may offer the following incentives:

- **Public-private partnerships:** Eagle County and/or the ECHDA may participate or facilitate participation with other governmental entities regarding financing, granting, tax exemption and/or purchasing of Affordable Housing units or other participation as agreed to by the parties.
- **Public funding assistance:** Eagle County and/or the ECHDA may assist with the application process for applicants who decide to pursue funding assistance from local, state or federal agencies. Eagle County and/or the ECHDA may also choose to use funds to match state, federal, or private grants.

- **Priority permitting:** Eagle County Community Development Department is utilizing the “Exceeding Housing Guidelines LUR Process Incentive.” This policy formalizes how Eagle County may prioritize review of the Project through various procedures such as subdivision, PUD Sketch Plan, PUD Preliminary Plan, Special Use Permit, or building permit. To qualify for priority permitting, the applicant must submit a complete land use application and must have made reasonable efforts to anticipate and address any known concerns with any and all referral agencies that have an interest in the Project.
 - Applicants may take advantage of this incentive if their application for a development permit contains a housing plan that exceeds the recommended mitigation rates set forth in Chapter 4 by providing priced-capped deed restricted units equal to or greater than a 50% mitigation rate. Additional value for price capped units will still be calculated.
- **Density bonus:** As part of any application for a Development Permit for a development, Eagle County may offer a density bonus.
- **Site design flexibility:** Provided that the standard of housing or the purpose and intent of the Guidelines are not compromised and the Eagle County Land Use Regulation provide appropriate authority for variations, and provided the design of the Project achieves other Eagle County strategic sustainability policy goals, Eagle County may consider flexible application of design standards including, but not limited to minimum lot size, building height, floor area ratio (FAR), lot coverage, set backs, parking, and landscaping.
- **Road impact fee waivers:** The BoCC may waive Eagle County imposed road impact fees for Affordable Housing units in accordance with the provisions of the Eagle County Land Use Regulations and state statute.
- **Other fee waivers:** The BoCC, in its sole and absolute discretion, may waive any other fee required by the Eagle County Land Use Regulations for Affordable Housing units.

6.08 Liberal Construction

These Guidelines shall be liberally construed so as to further their intent and purpose.

6.09 Severability

If any provision, clause, sentence, or paragraph of the Guidelines or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of the Guidelines that can be given effect without the invalid provision or application, and to this end the provisions of the Guidelines are declared to be severable.

6.10 Modification

These Guidelines may only be modified by the BoCC in a public hearing on the record. The Administrative Procedures may be amended by the Program Administrator in a manner consistent with the terms and intent of the Guidelines without BoCC approval.