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CHAPTER 12

ARTICLE 10

AFFORDABLE HOUSING REQUIREMENTS

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CHAPTER 12

ARTICLE 10

AFFORDABLE HOUSING REQUIREMENTS

12-10-1 Affordable Housing Fees.

- (1) The Town shall collect a fee set by a resolution adopted by the Grand Lake Board of Trustees for new construction that occurs within the Town boundaries. This fee shall be considered an impact fee and shall be used to mitigate the housing need created by the new development. Accessory buildings and structures, including but not necessarily limited to parking structures, attached and detached residential garages, decks, etc. are subject to the fee. The applicant for a building permit shall pay this fee to the Town by writing a separate check to the Town. The Town Building Official shall not issue any building permits for new construction until such time as this fee is paid in full. All funds thus paid to the Town shall be maintained in a separate account and shall be utilized for the purpose of providing affordable housing. (See Resolution #5-2006)
- (2) Nothing set forth herein shall preclude the owner/developer and the Town from entering into a mutual agreement, which agreement shall be reduced to writing and executed by each party, by which owner/developer agrees to provide mitigation of affordable housing need created, either directly or indirectly, by the owner/developer. The Affordable Housing Fee required by this Article may be satisfied, in whole or in part, by the means which are agreed to between the Town and the owner/developer. The amount or extent of the offset to the fees applicable to owner/developer's property/project shall be agreed upon between the Town and the owner/developer and shall be included within the agreement identified above.
- (3) Certain development or annexations may be eligible for a waiver of this Section based on criteria established by the Grand Lake Board of Trustees.

12-10-2 Individual Studies.

- (1) An owner/developer may request that an individualized study or report be made relating solely to his property or project in order to determine whether or not affordable housing dedications or exactions shall be required, and, if so, to determine the extent or amount thereof. Such study or report shall be individualized to the owner/developer's property or project, shall fairly and accurately delineate the needs for affordable housing which will be generated by the owner/developer's proposed project or improvement, and shall include consideration of the following criteria:
 - (a) Whether additional affordable housing would be required but for the owner/developer's proposed project or improvement;

- (b) Whether existing affordable housing can adequately serve the proposed project without the additional expense to construct, expand or improve affordable housing; and,
- (c) Whether the Town has historically required, or will require by ordinance, other owners/developers to dedicate similar property or pay an exaction of a similar type or in a similar amount.

This conclusion of such study or report shall contain a recommendation as to the number and location of affordable housing units to be required. In determining any such affordable housing to be required of owner/developer, a proportion shall be established between the total cost of providing or expanding affordable housing, on the one hand, and the amount or extent of such total cost which is attributable to, or is caused or generated by, the proposed development or improvement, on the other hand. The extent of dedication or amount of exaction due from owner/developer must bear roughly the same proportion to the total cost of providing affordable housing as the need for such housing generated by the owner/developer's proposed project or improvement bears to the general population's need for affordable housing.

- (2) Any owner/developer may prepare or cause to be prepared, at his sole cost and expense, the study or report described in Subsection (1) hereof. Said report shall be in writing and, upon the submission of such study or report, the owner/developer shall pay a fee of \$2,000.00 to offset the review time and cost of the Grand Lake staff as well as attorney fees or other consultation fees, in reviewing said study or report. The staff shall review said study or report, and shall comment thereon in writing to the Board of Trustees. Any disagreement by the staff with any of the findings or conclusions of such study or report shall be delivered in writing to the Board of Trustees and shall be specific to the project in question. In the event of disagreement between staff and owner/developer as to what affordable housing units are required, the Board of Trustees shall, after public hearing, decide the appropriate number of affordable housing units based upon the owner/developer's and staffs' separate studies or reports. The decision of the Board of Trustees shall be final, subject only to the right of owner/developer to appeal the same to the Grand County District Court pursuant to Rule 106, Colorado Rules of Civil Procedure.
- (3) Upon the express request of the owner/developer, which request shall be made in writing, the Town staff shall, upon the payment of a fee to be determined by the Town Manager, undertake the study described in Subsection (1) above. The staff shall submit such written report to the owner/developer as well as the Board of Trustees.

The owner/developer may agree with the provisions thereof, in which case the same shall be submitted to the Board of Trustees as a joint finding and recommendation. However, if the owner/developer disagrees with all or any part of the staffs' report, the owner/developer may, at his sole expense, submit a written report detailing the owner/developer's finding with regard to the criteria set forth in this Subsection (1), and

shall submit the same to the Board of Trustees. The Board of Trustees shall consider such reports at a public hearing and shall ultimately decide whether an exaction or dedication is required, and if so, the extent or amount of such exaction or dedication. The decision of the Board of Trustees shall be final, subject to the owner/developer's right to appeal to the Grand County District Court pursuant to Rule 106, Colorado Rules of Civil Procedure.

- (4) Criteria for Determination. In deciding whether to impose an affordable housing dedication or exaction requirement, the Board of Trustees shall consider those questions and criteria identified in Subsection (1), (2), and (3), and shall be guided by the overriding principle that an exaction or dedication requirement is unfair, disproportionate and unconstitutional if it imposes a burden on an owner/developer which in equity in fairness should be borne by the public in general or by another specific owner/developer. However, any exaction or dedication requirement will be in compliance with all existing constitutional tests if the failure of the owner/developer to provide the dedication or exaction would fail to remedy a public problem created or exacerbated by the owner/developer's proposed project to such an extent that the Board of Trustees would be justified in denying approval for the project altogether.

- (5) Compliance with Ordinance a Condition Precedent to Rezoning or Plat Approval. No rezoning or subdivision approval shall be final unless and until the owner/developer has selected one of the procedures outlined above and the report required has been provided to the Board of Trustees. No rezoning or subdivision approval shall be deemed final unless and until the Board of Trustees has made a determination as to whether or not an affordable housing dedication or exaction requirement shall be imposed, and if so, the extent or amount thereof. Any person, individual, or entity that commences development of a property, or attempts to obtain a permit to develop property, prior or the determination required in this ordinance shall, upon conviction, be subject to a fine not to exceed \$300.00. Each day such violation is committed or permitted to continue shall constitute a separate offense. In addition to said remedy, the Town may seek and obtain either a stop work order or an injunction against the continuation or completion of any construction or pre-construction activity on a project or improvement until the determinations required herein have been made.

Section 12-10-3 Inclusionary Zoning

A. Purpose:

- (1) The purpose of this Section is to mitigate the impact of market rate housing construction on the limited supply of available land suitable for housing, and to increase the supply of housing that is attainable to a broad range of persons who work in the Town. In recent years, the cost of housing has increased at a rate much faster than the increases in household earnings. This Section will prevent the Town of Grand Lake's land use regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within Grand Lake.

- (2) This Section requires new residential development to provide at least 10% of the housing that it produces to be attainable to lower and moderate income households as further defined in the Local Employee Residency Requirements and Guidelines. Local Employee Residences shall be obtainable by persons having lower and median incomes, paying not more than 33% of their household income for mortgage principal and interest payments, insurance, and property taxes including Homeowners' Association assessments. Local Employee Residences should be disbursed throughout the community and, when possible, integrated into the existing community fabric.
 - (3) The Town of Grand Lake recognizes that attainable housing is a valuable community resource that needs to remain available not only for current residents and employees, but also for those who may come to the area in the future. For this reason, deed restrictions or other methods that assure that prices remain attainable over time are necessary.
- B. Definitions: The terms, phrases, words and clauses used in this Section shall have the meanings assigned below. Any terms, phrases, words, and clauses not defined herein shall have the meaning as defined in other parts of the Grand Lake Municipal Code.
- (1) Area Median Income: Median family income estimates and program income limits compiled and released annually by the U.S. Department of Housing and Urban Development. Such figures shall be utilized by the Town in the establishment of initial maximum sales price for Local Employee Residences.
 - (2) Development: The division of a parcel of land into five (5) or more dwellings; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any excavation, or other land disturbance; or any use or extension of use that alters the character of the property.
 - (3) Local Employee Residence: A residential lot or separate dwelling unit that is deed restricted in accordance with the Town of Grand Lake's Local Employee Residency Requirements and Guidelines, and in accordance with a deed restriction approved by the Board of Trustees or its designee.
 - (4) Local Employee Residency Requirements and Guidelines: The requirements and guidelines adopted by resolution of the Board of Trustees, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent Local Employee Residences; the requirements (e.g., employment) for qualifying to own or rent Local Employee Residences; forms of approved deed restrictions; limitations on appreciation of sale prices of Local Resident Housing; procedures for sale of Local Employee Residences; priorities for persons bidding to purchase Local Employee Residences; occupancy requirements; size, rental, and sales price limitations; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new Local Employee Residences; and possible incentives for the construction of Local Employee Residences. The Local Employee Residency Requirements and Guidelines, and any subsequent amendments thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.
- C. Applicability: Local Employee Residences shall be required as a condition of approval for all residential and mixed-use developments including planned developments (PDs), subdivisions, annexations and multi-family residential development permits.

D. Exemptions: The following development is exempt from the requirements of this Section:

- (1) Development of Local Employee Residences.
- (2) Proposed residential development of less than five (5) dwellings to be located on one or more contiguous parcels of land held under the same or substantially the same ownership.
- (3) Development which is exempt by virtue of a vested property right pursuant to a site specific development plan as defined and established in accordance with Section 24-68-103, C.R.S. prior to the effective date of this Section, or which is otherwise specifically exempt pursuant to a Grand Lake Municipal Code.

E. Residential Development Requirements

- (1) Number of Local Employee Residences Required. All new residential subdivisions, a re-subdivision (which contains residential units) of an existing subdivision, new planned developments containing residential units, and mixed use residential developments approved after the effective date of this Section, containing five (5) or more residential units, shall set aside at least 10% of those units as Local Employee Residences as defined in this Section and the Town's Local Employee Residency Requirements and Guidelines. In addition, the developer of such project shall construct Local Employee Residences in accordance with the Local Employee Residency Requirements and Guidelines. For those developments of five (5) or more residential units whose calculation results in a fraction of a unit, the Local Employee Residence requirement shall be rounded to the nearest integer. In all cases one-half or .5 shall be rounded to the nearest upper integer. In cases where the result of the calculation is rounded down to an integer, that portion of the calculation which is rounded down shall be due as a cash payment for attainable housing per requirements as set forth in Grand Lake Municipal Code 12-10.
- (2) Determination of Mix Units. The mix of Local Employee Residences available for purchase shall average a price attainable to households earning 90% of the Maximum Income Limits as set forth in the Town's Local Employee Residency Requirements and Guidelines. The attainable price shall be calculated based on mortgage principal, interest, taxes, Homeowner's Association assessments, and insurance, not to exceed 33% of gross household income. The calculation shall assume a 95% loan to value ratio, and a 30-year mortgage at prevailing interest rates. The average price may be achieved by providing units attainable to households not greater than 110% of the Maximum Income Limits as set forth in the Town's local Employee Residency Requirements and Guidelines.
- (3) Location and Character of Local Employee Residences. Local Employee Residences shall be distributed throughout the proposed development, to the extent possible. Off-site housing may be allowed only when a unique situation is present and the Board of Trustees determines that permitting off-site housing would be in the best interest of the Town. If off-site housing is allowed, the off-site housing must be located entirely within the Town limits of the Town of Grand Lake and is subject to the Local Employee Residency Program Requirements and Guidelines. The proposed character and density of Local Resident Housing units shall be compatible with the surrounding land uses and neighborhood character, and suitable for the proposed site. Development

and construction of Local Resident Housing units shall comply with all other requirements of the Grand Lake Municipal Codes.

- (4) Schedule for Construction of Local Employee Residences. A developer shall construct the required Local Employee Residences prior to, or concurrently and proportionally with, the production of market rate housing or the sale of market rate lots. Prior to receiving development approval, the developer shall provide the Town with a proposed construction schedule for approval by the Town that clearly delineates the start and completion dates of the production of market rate units and/or the sale of market rate lots and the construction of Local Employee Residences in accordance with the Town's Local Employee Residency Requirements and Guidelines.
- (5) Deed Restrictions. All Local Employee Residences required by this Section shall be deed restricted, in accordance with the requirements of the Local Employee Residency Requirements and Guidelines, and as approved by the Town Attorney, as to rental or ownership and occupancy by persons and as to the resale price of the unit. The deed restriction shall be provided to the developer for review at the time of approval of the developer's Local Employee Residency Plan. Prior to the issuance of any building permit within the development, the Town shall have an approved, executed and recorded deed restriction for all Local Employee Residence lots or units in the project or phase of the project, if applicable. Such deed restrictions shall not be subject to any recorded liens or encumbrances.

F. Local Employee Residency Plan

- (1) All applications for approval of a new subdivision, a re-subdivision of an existing subdivision, new planned developments, mixed-use developments, and annexations containing five (5) or more residential units, shall be accompanied by a Local Employee Residency Plan, unless otherwise determined by the Town Planner. Such plan shall contain sufficient information to allow the Town to determine the Plan's compliance with this Section and the Town's Local Employee Residency Requirements and Guidelines. The local Employee Residency Plan shall include, but shall not be limited to, the information specifically required by the Town's Local Employee Residency Requirements and Guidelines.
- (2) Upon receipt of a complete proposed Local Employee Residency Plan, the Town Planner shall evaluate the plan for compliance with this Section and the Town's Local Employee Residency Requirements and Guidelines. The Town Planner may make a recommendation of approval, recommendation of approval with appropriate conditions, or a recommendation of denial. Following receipt of the Town Planner's recommendation, and as a part of the Town's procedures for review and final approval of any application for an annexation, planned development, mixed use development, or subdivision containing five (5) or more residential units, the Town Board or administrative staff member vested with authority to approve any such development may approve the Plan, approve the Plan with appropriate conditions consistent with the Town's Local Employee Residency Requirements and Guidelines, or deny approval of such Plan. No application for annexation, planned development, mixed use development, or subdivision containing five (5) or more residential units, shall be granted unless the Local Employee Residency Plan is approved or approved subject to conditions by the Town.