



STAFF REPORT

To: Snyderville Basin Planning Commission
From: Ray Milliner, County Planner
Date of Meeting: March 9, 2021
Type of Item: Code Amendment – Work Session
Process: Legislative

RECOMMENDATION: Staff recommends that the Planning Commission discuss potential amendments to Chapter 5 Affordable Housing regulations for in the Snyderville Basin and provide direction.

Proposal

The purpose of this discussion is to review Chapter 5, Affordable Housing in the Development Code, make the Commission aware of issues and problems that need to be resolved. Staff has invited representatives from the County as well as from Mt. Lands Community Housing Trust to discuss the issues further. Specific amendments will be made to the Chapter and presented to the Commission at a later meeting.

Background

Chapter 5 of the Development Code spells out how and when affordable housing will be required with new development. It determines how much affordable housing should be included with new residential and commercial development, provides criteria, unit sizes, instructions on deed restrictions, etc.

Over the years, some of the information in the Chapter has become out of date, confusing, or contradictory and in need of revision. The purpose of this work session is to discuss the issues with the Commission and receive feedback.

Items for Discussion

Below is a list of items in various sections of the chapter that the County Affordable Housing Officer has identified that need to be either added into the language, clarified or taken out.

Staff is requesting that the Commission review and discuss these items as part of this work session. Following this discussion, staff will make changes to the Chapter, and return for further discussion with the Commission.

1. Applicability & Exempt Projects

- Units for Sale
- Rental Units

2. Definitions (not a complete list)

- Moderate Income Housing
- Middle Income Housing (attainable)
- Affordable Housing (National)
- Affordable Housing (State of Utah)
- Income restricted
- Deed restricted
- “Waterfall”
- Area Median Income (AMI)
- Summit County AMI Income Thresholds vs. HUD Low, Very Low and Extremely Low-Income Thresholds

• **Alternatives to Units within project**

- In lieu fee

3. Housing Agreements & Deed Restrictions

- Issuance of Building Permits
- Certificate of Occupancy
-

• **Standards**

- Location within project, relationship to non-inclusionary units
- Disbursement
- Proportion
- Comparison to market rate units
 - i. Parking
- Unit Sizes
- Timing of construction
- Affordability Period
 - i. Units for sale
 - ii. Rental units
- Buyer/Tenant Preference and Priority System

• **Enforcement/Monitoring**

• **Rental Units**

- Eligible Tenants
- Rental Rates Adjusted by Family Size
- Changes in Household Income
- Waterfall Provisions
- Occupancy Status Reports

• **Ownership Units**

- Eligible Purchasers
 - Unit Pricing Formula
 - i. Bedrooms
 - ii. Occupancy (family size)
 - iii. Interest Rate
 - iv. HOA Fees
 - v. Private Mortgage Insurance
 - vi. % Down Payment
 - vii. Monthly Insurance
 - Owner Occupancy Requirements
 - Hardship and Temporary Rental Provisions
 - Resale Restrictions
 - Occupancy Status Reports
 - Change in Title
 - Waterfall Provisions
- **Five (5) Year Housing Assessments**
 - **Populations Growth**
 - i. Natural Increase
 - ii. In Migration
 - iii. Household Size
 - iv. Household Size by Unit Type
 - **Employment Growth**
 - i. Occupation Growth
 - ii. Median Earnings by Occupations
 - iii. Convert Occupations to Households
 - iv. Household Size
 - Age Cohort Analysis
 - i. Population
 - ii. Workers
- **Annual Moderate Income Housing Report**

Recommendation

Staff recommends that the Planning Commission discuss potential amendments to Chapter 5 Affordable Housing regulations for in the Snyderville Basin and provide direction.

Exhibits

Exhibit A. Chapter 5 of the Development Code

- [10-5-2: Methodology And Applicability](#)
- [10-5-3: Affordable Housing Requirements](#)
- [10-5-4: Affordable Unit Equivalents \(AUEs\)](#)
- [10-5-5: Residential Base Requirement](#)
- [10-5-6: Commercial Base Requirement](#)
- [10-5-7: Alternatives To On Site Housing](#)
- [10-5-8: Mixed Use Base Requirement](#)
- [10-5-9: Fees In Lieu](#)
- [10-5-10: Accessory Dwelling Units \(ADUs\)](#)
- [10-5-11: Fee Waivers](#)
- [10-5-12: Allowable Prices](#)
- [10-5-13: Enforcement; Management](#)
- [10-5-14: Approval Process](#)

10-5-1: INTENT:

The purposes of this chapter are to:

1. Provide requirements, guidelines, and incentives for the construction of housing affordable to extremely low income, very low income, and low income households in the Snyderville Basin;
2. Implement the affordable housing goals, policies, and objectives contained in the Snyderville Basin general plan;
3. Ensure a wide variety of affordable housing options and opportunities for residents, seniors, workers, and special needs individuals in the Snyderville Basin;
4. Maintain a balanced community that provides housing for people of all income levels; and
5. Implement planning for affordable housing as required by state code. (Ord. 783, 10-10-2012)

10-5-2: METHODOLOGY AND APPLICABILITY:

A. Affordable Housing Needs: The county shall adopt a needs assessment model to determine the need for affordable housing, types of housing, special needs, and specific incomes to be targeted in the Snyderville Basin. The model shall be utilized to update the needs assessment no less than once every five (5) years, unless requested sooner by the planning commission or county council.

B. Base Requirement: There shall be a base requirement to provide affordable housing throughout all zones of the Snyderville Basin. The base requirement shall apply to all new residential, commercial, and mixed use development, and shall be calculated using affordable unit equivalents (AUEs).

C. Exemptions: The following developments shall not be required to provide additional affordable housing:

1. The construction of accessory dwelling units in single-family residences.
2. The construction of a single-family residence on an existing lot of record.
3. The expansion of an existing residence.
4. The construction of schools, churches, public facilities, and other institutional uses.
5. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase in the existing structure gross square footage or total project square footage, but no greater than five thousand (5,000) square feet; this is a onetime exemption.
6. The first five thousand (5,000) square feet of a new commercial use; this is a onetime exemption.
7. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase of the existing total acreage but no greater than two (2) acres, if the use is primarily outdoors; this is a onetime exemption.
8. A change in use which does not increase the employee generation by more than two (2) employees per one thousand (1,000) square feet.

D. Definitions:

AREA MEDIAN INCOME (AMI): The amount of income which divides the income distribution of the area into two (2) equal groups, half having income above that amount, and half having income below that amount as determined by the U.S. department of housing and urban development for Summit County from time to time.

MEDIAN LOT SIZE: Half of all lots in the development are larger, and half are smaller. (Ord. 783, 10-10-2012)

10-5-3: AFFORDABLE HOUSING REQUIREMENTS:

A. All developments containing affordable units shall enter into a housing agreement with Summit County. The housing agreement shall be recorded against all parcels and units identified as affordable in the development, and shall include the following:

1. Identification of the units to be deed restricted as affordable housing, including, but not limited to, unit ID number and/or address, square footage, location, and style of unit.
2. A specification of allowed starting sales and/or rental price(s), price increase methodology, target household size and target income range for each unit.
3. Management plan for the affordable units, including the process for buyer qualification to ensure that employees working and living in Summit County are given priority. The management plan shall conform to a template to be provided by Summit County.
4. A copy of the approved deed restriction or document to assure affordability to be recorded against the individual affordable units.
5. A good faith marketing plan for the units. All sellers or owners of deed restricted affordable units shall engage in good faith marketing efforts each time a deed

restricted unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance of becoming informed of the availability of such units. A public marketing plan shall be submitted by the developer prior to the initial sale or lease of the units.

B. Affordable units shall meet all of the following criteria:

1. Design To Be Consistent With Character Of Neighborhood: The specific unit type and design shall be consistent with the character of the surrounding neighborhood and/or development. If the development contains both market rate and affordable units, the exterior design, look and feel, and finishes of affordable units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between affordable and market rate units.
2. Compliance With Development Standards Required: Affordable housing units shall comply with all the development standards outlined in chapter 4 of this title, and shall comply with the requirements of the underlying zone, with the exceptions outlined in this chapter.
3. Minimum Size: The minimum size of an affordable housing unit shall be based on the category of unit, as outlined in section [10-5-4](#), "Affordable Unit Equivalent (AUE)", of this chapter.
4. Concurrent Construction: The affordable housing component in a development shall be constructed concurrently with the rest of the development. Each phase of a project must contain a proportionate amount of the required affordable housing. This applies to both on site and off site housing.
5. Construction Within Development Site: The affordable housing component of a development shall be constructed within the development site, except as outlined in this chapter.
6. Residential Parking: Residential parking shall be provided at a minimum rate of one space per single room occupancy (SRO), studio, or one bedroom unit, and two (2) spaces per unit for multiple bedroom units. Visitor parking will also be provided throughout the project at a rate of 0.25 spaces per unit.
7. Variation Of Prices: The affordable units shall be provided in a variety of prices so that multiple income levels, as outlined in section [10-5-12](#) of this chapter, are targeted. No one target income level may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
8. Variation Of Sizes And Styles: The affordable units shall be provided in a variety of sizes and styles, as outlined in subsection 10-5-4C of this chapter. No one size or style of unit may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.

9. Compatibility: To allow for the structures to be compatible with market homes within the subdivision and the existing neighborhoods, the homes constructed can be multi-family to avoid having smaller homes within a larger home community. Such multi-family structures shall contain no more than three (3) units per structure, and shall be designed in such a manner that they appear to be one detached single-family home consistent with the adjacent larger homes. Multi-family structures shall be subject to the permitting requirements in chapter 2 of this title.
10. Minimum Length Of Time: The minimum length of time for a unit to be deed restricted as an affordable unit shall be sixty (60) years as measured from issuance of certificate of occupancy, which may be renewable for an additional term.
11. Rentals: All deed restricted rental units shall be rented for a minimum period of ninety (90) consecutive days. Nightly and weekly rentals shall be prohibited.
 - a. Exception: Special needs emergency/transitional/athlete/employee housing shall be exempt from the ninety (90) day limitation, but shall be rented for a sufficient period to prevent nightly and weekly rentals. To qualify for the exemption, there must be a quantified, demonstrated need for the emergency/transitional/athlete/employee housing within the Summit County boundaries, and the housing must be developed in collaboration with a federally recognized, 501(c)(3) nonprofit organization. The housing must satisfy all other requirements of this chapter.
12. For Sale Units: The maximum initial sales price or rent of an affordable unit shall be limited to a price that is affordable to an "extremely low income", "very low income", or "low income" household as defined by the department of housing and urban development (HUD) for the area median income (AMI) for Summit County each year, and annual appreciation shall be limited through a deed restriction to ensure that the unit remains affordable over time. Notwithstanding this provision, the deed restrictions may provide for sales or rental to higher income households in the event the unit is not sold or rented within a reasonable time.
13. Net Income Limitations: In addition to the net income limit, qualifying households are limited to a net worth of four (4) times the AMI.
14. Master Leases: A qualified nonprofit organization, or employer desiring to provide qualifying employees with affordable housing, may purchase or lease existing affordable units when a master lease program is approved, whereby the nonprofit organization or employer will rent or lease the units to qualifying employee households. A management plan shall be approved by Summit County and recorded against the affordable units as part of, or an amendment to, a housing agreement.
15. Housing Availability: In an effort to ensure that the affordable housing is available for qualified individuals:
 - a. All renters of affordable units will be required to certify annually to the county, or its designee, that they still qualify for the targeted percentage of AMI. If a renter no longer qualifies for the housing, their lease will not be renewed and the property will then be made available to a qualifying renter.
 - b. If a for sale unit owner's household's income increases to an amount above the targeted percentage of AMI while occupying an affordable unit, the household shall

not be required to sell the unit. Upon vacating the premises naturally, a for sale unit shall be sold pursuant to the terms of the deed restriction.

16. Priority In Obtaining Units: Households currently living or working in Summit County shall have priority in obtaining affordable units, through a selection process determined by the county council, subject to compliance with federal and state fair housing requirements.
17. Deed Restriction Approval: A deed restriction shall be approved by the county and recorded on all affordable dwelling units. A template restriction approved by the county council shall be used for all new affordable units, unless substitute restrictions setting forth substantially the same information are provided by a community oriented housing nonprofit group for units they develop, and if the substitute restriction is approved by the county council. Such substitute restrictions may include the use of a community land trust or management by a local housing nonprofit to ensure long term control and stewardship. The deed restriction templates shall be reviewed annually, and shall at a minimum outline the following:
 - a. Income and net worth qualification,
 - b. Term of applicability,
 - c. Assignable county right of first refusal,
 - d. Allowable capital improvements,
 - e. Maintenance,
 - f. Occupancy requirements,
 - g. Rental and sales policies,
 - h. Starting sales and rental prices,
 - i. Allowable annual price increase,
 - j. Reporting and monitoring structures,
 - k. Management,
 - l. Enforcement provisions.
18. Modification Of Restrictions: These restrictions may be modified to satisfy state and/or federal requirements, if a project receives state and/or federal funding that requires modifications.
19. Certification: All for sale and rental affordable units shall be certified by an independent qualified evaluator, at a minimum, Energy Star or its equivalent energy efficient certification. (Ord. 783, 10-10-2012)

10-5-4: AFFORDABLE UNIT EQUIVALENTS (AUEs):

A. Affordable Unit Equivalents (AUEs): All new development shall be required to provide a certain number of affordable unit equivalents (AUEs), as outlined in this chapter. To encourage the provision of smaller more affordable units, the cumulative total square footage required decreases for smaller units and increases for larger units.

B. AUE Defined: "AUE" is defined as a "two (2) bedroom unit with nine hundred (900) square feet of net livable space, measured exterior wall to exterior wall". Multiple smaller units together may constitute one AUE, or fewer larger units, according to the conversion in subsection C of this section.

C. AUE Conversions:

1. Dormitory unit:

- a. Minimum size = 150 square feet per bed
- b. 1 AUE = 5 beds (1 bed = 0.2 AUE)
- c. Example: 8 AUEs = 40 beds
 - (1) $8 \times 5 = 40$, or
 - (2) $8 \div 0.2 = 40$

2. Single room occupancy (SRO) unit:

- a. Minimum unit size = 275 square feet
- b. 1 AUE = 2.75 units (1 unit = 0.3636 AUE)
- c. Example: 8 AUEs = 22 units
 - (1) $8 \times 2.75 = 22$, or
 - (2) $8 \div 0.36 = 22$

3. Studio unit:

- a. Minimum unit size = 400 square feet
- b. 1 AUE = 2.0 units (1 unit = 0.5 AUE)
- c. Example: 8 AUEs = 16 units
 - (1) $8 \times 2.0 = 16$, or
 - (2) $8 \div 0.5 = 16$

4. One bedroom unit:

- a. Minimum unit size = 650 square feet
- b. 1 AUE = 1.25 unit (1 unit = 0.8 AUE)
- c. Example: 8 AUEs = 10 units
 - (1) $8 \times 1.25 = 10$, or
 - (2) $8 \div 0.8 = 10$

5. Two (2) bedroom unit:

- a. Minimum unit size = 900 square feet
- b. 1 AUE = 1 unit
- c. Example: 8 AUEs = 8 units
 - (1) $8 \times 1 = 8$, or
 - (2) $8 \div 1 = 8$

6. Three (3) bedroom unit:

- a. Minimum unit size = 1,150 square feet
- b. 1 AUE = 0.80 unit (1 unit = 1.25 AUEs)

c. Example: 8 AUEs = 6.4 units

(1) $8 \times 0.80 = 6.4$, or

(2) $8 \div 1.25 = 6.4$

7. Four (4) bedroom unit:

a. Minimum unit size = 1,400 square feet

b. 1 AUE = 0.70 unit (1 unit = 1.43 AUEs)

c. Example: 8 AUEs = 5.6 units

(1) $8 \times 0.70 = 5.6$, or

(2) $8 \div 1.43 = 5.6$

D. AUE Application:

1. Dormitory and SRO units shall only be permitted to meet the requirement for commercial and resort uses, and shall not be permitted in single-family residential neighborhoods.
2. If units are provided that are larger than the minimum size outlined in subsection C of this section, the number of units per AUE may be reduced, but:

- a. In no case may the reduction exceed a total of ten percent (10%) of the obligated AUEs for a development, and
- b. In no case may the credit per unit exceed one hundred fifty (150) square feet per dormitory unit, SRO, studio, or one bedroom unit, and
- c. For multiple bedroom units, in no case may the additional square footage credited toward the AUEs exceed one hundred fifty (150) square feet multiplied by the number of bedrooms.

E. Fractional Obligation: If the total number of required AUEs contains a decimal, and the units provided do not account for the entire decimal, then the developer shall pay a fee in lieu for the remaining fractional obligation only. In no case shall the number of AUEs provided be less than the whole number portion of the obligation.

1. Example: If a developer has an obligation of 13.4 AUEs, and 13.2 AUEs are provided, a fee in lieu shall be paid for the 0.2 remainder, as outlined in section [10-5-9](#) of this chapter. In this case the number of AUEs provided may not be less than thirteen (13), the whole number portion of the obligation.

F. Reductions In Requirement: Developers may be granted the option of only one of the following reductions:

1. If a developer provides all the required affordable housing up front (prior to the first certificate of occupancy for the market portion of the development), the number of required AUEs may be reduced by up to twenty five percent (25%) at the discretion of the land use authority.

2. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed fifty percent (50%) of the area median income, the number of required AUEs shall be reduced by twenty five percent (25%).

3. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed forty percent (40%) of the area median income, the number of required AUEs shall be reduced by forty percent (40%).

4. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed thirty percent (30%) of the area median income, the number of required AUEs shall be reduced by fifty percent (50%). (Ord. 783, 10-10-2012)

10-5-5: RESIDENTIAL BASE REQUIREMENT:

Obligation Rate: All new residential development shall be required to develop or ensure the development of affordable housing at a rate of twenty percent (20%) of the units in a development. The affordable housing obligation shall be met concurrently with the construction of market rate units.

1. Calculation Of Required AUEs: The total number of allowed market rate units shall be multiplied by twenty percent (20%). The resulting number shall represent the total number of AUEs required of the project, shall be provided in addition to the allowed market rate units in the project, and shall not count against the allowed density of the project.

2. Expansion: When existing development applies for additional units, the obligation rates shall be calculated on the net unit increase only.

3.

B. Example: Example calculation for residential development requirement:

a. Number of allowed market units in example development = 23

b. Obligation rate = $23 \times 20\% = 4.6$

c. Total AUEs required = 4.6

d. Total units permitted: 23 market + 4.6 affordable = 27.6 units

e. Result: 27 units, fee in lieu for 0.6

C. Development Of For Sale Lots: In projects developing for sale lots, where the developer does not construct units on the lots but requires the purchaser to do so, the developer shall be required to create lots for the development of affordable housing at a rate of twenty percent (20%) of the total approved market rate lots in the development.

1. The affordable lots may be donated to an approved housing nonprofit organization for the development of affordable housing on the lots. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization receives a construction ready lot free and clear of all encumbrances. All

required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the nonprofit organization.

2. The smallest affordable lot shall be no smaller than fifty percent (50%) of the size of the median market rate lot in the development.

3. The affordable lots and units shall be integrated into the development. The land use authority shall have the discretion to modify this provision if they find that the development of affordable housing and the overall project will be enhanced by the nonintegration of the affordable units based upon the design of the project, the type and size of the affordable housing provided and the character of the surrounding neighborhood. (Ord. 783, 10-10-2012)

10-5-6: COMMERCIAL BASE REQUIREMENT:

A. Obligation Rate: For new commercial development, or expansion of existing commercial development, an applicant shall be required to develop or ensure the development of affordable housing to meet twenty percent (20%) of the employee housing demand generated by the new development.

B. Employee Generation: "Average employee generation", defined as full time equivalents (FTEs, 2,080 hours) per one thousand (1,000) net leasable square feet, is established as follows:

EMPLOYEE GENERATION BY TYPE OF USE

Types Of Use	FTEs
Commercial/retail	3.3
High intensity, including, but not limited to, call centers, real estate/property management offices, recreation/amusements	5.6
Lodging/hotel	0.6 per room
Low intensity, including, but not limited to, utilities, education, medical offices, light industry, research parks	2.62
Medium intensity offices, including, but not limited to, banking and professional services	3.7
Restaurant/bar	6.5
Overall/general ¹	4.4

Note:

1. The overall/general type of use shall apply to any use not listed in the employee generation table if an independent calculation is not performed.

C. Independent Calculation: An applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the employee generation table, subject to the following requirements:

1. The county shall create a pool of approved entities, persons, or groups to conduct independent calculations. The pool shall be chosen from on a strictly rotational basis; each subsequent application requesting an independent calculation shall be assigned to the next entity, person, or group on the approved list.

2. The land use authority shall make the final determination of whether or not the calculation constitutes compelling evidence of a more accurate calculation of employee generation than the "Employee Generation By Type Of Use" table of this section.

3. Should the independent calculation not be accepted, then the applicable generation factor from the employee generation table shall be applied to the proposed development.

4. Any acceptance of an independent calculation shall be site and use specific, nontransferable, and be memorialized in the housing agreement for the property, which shall be executed prior to the issuance of any building or development permits.

D. Calculation Of Required AUE(s): Required AUEs for commercial development shall be calculated using the following formula:

Formula:

$(\text{Employee generation} \times \text{square footage}) \div 1,000 = \text{employees generated}$

$(\text{Employees generated} \times \text{obligation rate of 20\%}) = \# \text{ of employees to mitigate}$

$(\text{Employees to mitigate} \div 1.5 \text{ workers per household} \div 1.2 \text{ jobs per employee}) = \text{AUE obligation}$

E. Example Calculation For Commercial Development Requirement:

Example: Commercial development application for a 15,000 square foot project:

First 5,000 square feet are exempt; calculation done on 10,000 square feet

Employee generation, general category: $(4.4 \times 10,000) \div 1,000 = 44$ employees generated

Mitigation:

$44 \text{ employees multiplied by } 0.20 \text{ (mitigation rate)} = 8.8 \text{ employees}$

$8.8 \text{ divided by } 1.5 \text{ (workers per household)} = 5.87 \text{ employees}$

$5.87 \text{ divided by } 1.2 \text{ (jobs per worker)} = 4.89 \text{ AUEs}$

F. Winter Seasonal Units: An applicant for a commercial development may choose to satisfy employee housing requirements by provision of dormitory units designed for occupancy by seasonal employees. The dormitory units must meet the requirements of this chapter, as well as the following minimum standards:

1. Occupancy of each dormitory unit shall be limited to no more than six (6) persons.

2. There shall be at least one hundred fifty (150) square feet of net livable square footage per person, including sleeping and bathroom uses.

3. At least one bathroom shall be provided for shared use by no more than four (4) persons. The bathroom shall contain at least one toilet, one washbasin, and one shower.

4. A kitchen facility or access to a common kitchen or common eating facility shall be provided subject to the building department's approval and determination that the facilities are adequate in size to service the number of people using the facility.

5. Use of a minimum of twenty (20) net usable square feet per person of enclosed storage area located within, or adjacent to, the unit.
6. Seasonal dormitories may be required to house qualified employees of the community at large; if the development or ongoing expense of the development are substantially subsidized by an employer, and if federal funds do not require otherwise, that employer may be permitted to first offer the units to its employees. (Ord. 783, 10-10-2012)

10-5-7: ALTERNATIVES TO ON SITE HOUSING:

A. Development may meet their AUE obligation in one of the following ways:

1. Construct on site affordable units.
2. Construct off site affordable units as outlined below:

a. Prior to obtaining approval for the market site, a suitable alternate site for affordable housing, along with a conceptual site plan and unit layout for the alternate site, shall be presented by the applicant and approved by the county.

b. Prior to commencement of improvements of the market site, a draw down bond with a minimum two (2) year term shall be posted in the amount equal to the fee in lieu of the required AUEs.

(1) In the event the required unit equivalents are not completed with a certificate of occupancy, or if substantial progress satisfactory to the county council has not occurred within two (2) years, the county council shall have the right to draw upon the bond, in which case all funds deposited shall be forfeited by the developer to the county.

c. Prior to receiving a certificate of occupancy for any portion of the market site, a development plan, site plan, final plat if required, elevations, deed restriction, housing agreement, and time line of construction for the affordable units shall be approved, and recorded where required, by the county.

d. The off site housing shall be constructed within two (2) years of the market development.

3. Pay a fee in lieu as outlined in this chapter.

4. Purchase existing unit(s) at market rate, record a county approved deed restriction on the unit(s), and sell the unit(s) to qualifying household(s) at an affordable price. The existing units shall be subject to the size and income requirements of this chapter.

5. Donate land of sufficient size to accommodate the number of required AUEs to the county or its designee.

a. Examples of county designees may include qualifying community based housing nonprofits such as Habitat For Humanity, Mountainlands Community Housing Trust, religious organizations, and Peace House. The recipient shall provide written acceptance setting forth the terms and conditions of the acceptance of the proposed donation to the county.

b. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization receives a construction ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the nonprofit organization. (Ord. 783, 10-10-2012)

10-5-8: MIXED USE BASE REQUIREMENT:

A. Mixed Use Development Requirements: The obligation rate for the residential portion of the development shall be determined using the residential development requirements, and the obligation rate for the commercial portion of the development shall be determined using the commercial development requirements. The total required AUEs shall be the sum of the residential obligation and the commercial obligation. (Ord. 783, 10-10-2012)

10-5-9: FEES IN LIEU:

A. Applicability: Fees in lieu shall be available for any AUE obligation.

B. Fee Amount: The "in lieu fee" shall be defined as the difference between the amount of the allowable price as set forth in section [10-5-12](#) of this chapter for a low income household for a family of four (4) and the median assessed square footage value of a two (2) bedroom home in the Snyderville Basin, multiplied by nine hundred (900) square feet. A per unit fee in lieu amount shall be adopted by the county council, and shall be, at a minimum, reviewed and updated biennially.

C. Payment Of Fees: All fees in lieu shall be placed in a separate county account designated for affordable housing purposes only; or in the alternative, fees may instead be paid directly to an approved housing nonprofit upon approval by the appropriate land use authority.

D. Use Of Fees: Use of the funds shall be approved on a case by case basis by the chief executive of Summit County. Some examples of permitted uses may include, but shall not be limited to, the following:

10-5-11: FEE WAIVERS:

A. Applicability: Affordable units may be eligible for waivers of building department and planning department application and permit fees. The waivers shall apply only to

affordable units and/or lots, and shall not apply to market rate units and/or lots in a development containing affordable units.

C. Schedule: Affordable units may be granted waivers as outlined below, up to the full amount of fees actually applied:

1. A waiver of up to fifty percent (50%) of the fees for each unit targeting low income households.
2. A waiver of up to seventy five percent (75%) of the fees for each unit targeting very low income households.
3. A waiver of up to one hundred percent (100%) of the fees for each unit targeting extremely low income households.

C. Process: Prior to construction an applicant shall submit an application to the appropriate county department, containing the following:

1. A site plan showing the total number of units in the development, and identifying the affordable units.
2. A summary outlining the sales and/or rental prices of each individual affordable unit.
3. Nonprofit developers shall be granted a waiver of any waived fees up front.
4. For profit developers shall post a cash bond, post a surety bond, or provide an irrevocable letter of credit for all required fees; any waived amount shall be released to the developer upon project completion, and unwaived fees paid to the appropriate department.
5. The final decision concerning the approval of fee waiver applications shall be made by the county manager. (Ord. 783, 10-10-2012)

10-5-12: ALLOWABLE PRICES:

A. Prices: The rent and sales prices of affordable units shall be based upon the size of the unit. Units that are the minimum allowed size shall be priced at the low end of the allowed range, and units that exceed the minimum allowed size may be allowed to be priced in the middle or upper end of the allowed range. The allowed price ranges shall be set as follows:

1. Dorm units, SRO, and studio units shall be priced for extremely low income households, adjusted for household size.
- a. Dorm units and single room occupancy (SRO) units shall have an assumed household size of 0.75 persons per one hundred fifty (150) square feet, and studio units shall have an assumed household size of one person.
2. One bedroom units shall be priced for very low income households, adjusted for household size. One bedroom units shall have an assumed household size of two (2) persons.
3. Two (2) bedroom units shall be priced for low income households, and have an assumed household size of three (3) persons.
4. Three (3) bedroom or more units and larger shall be priced for low income households, and shall have an assumed household size of four (4) persons.

5. The allowable price shall be calculated based upon the monthly income (as defined by federal standards) of qualifying households.

a. For Sale Units: The allowable sales price shall be calculated so that the sum of the monthly mortgage payment, plus mortgage insurance, property taxes, and HOA dues does not exceed thirty percent (30%) of a household's gross monthly income, and based upon the following assumptions:

(1) An available fixed rate thirty (30) year mortgage, consistent with the first time homebuyer rate offered by the Utah Housing Corporation, plus fifty (50) basis points. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed rate, thirty (30) year mortgage at this lower rate for all of the inclusionary units.

(2) A down payment of no more than five percent (5%) of the purchase price.

(3) A calculation of property taxes, and

(4) A calculation of homeowners' insurance and/or homeowners' association fees.

(A) Homeowners' association (HOA) fees shall be no more than the HOA fee for market rate units and shall be the lesser of the actual HOA fee or an annual amount equal to one percent (1%) of the allowable price as adjusted annually based upon the permitted increases in the allowable price as set forth in the deed restrictions. This limitation of HOA fees shall be set forth in the recorded deed restrictions.

b. For Rent Units: The allowable rental price shall be calculated so that the monthly rent, plus utilities, does not exceed thirty percent (30%) of a household's gross monthly income. (Ord. 783, 10-10-2012)

10-5-13: ENFORCEMENT; MANAGEMENT:

A. The county or its designee shall have the authority and responsibility to enforce compliance with the requirements outlined in this chapter. The provisions of this chapter shall apply to all agents, successors, and assigns of an applicant. No building permit or certificate of occupancy shall be issued, nor development approval be granted, which does not meet the requirements of this chapter. In the event it is determined that rents or sales prices in excess of those allowed by this chapter have been charged to a renter or buyer of an affordable unit, the county or its designee shall take appropriate legal action to correct the situation. (Ord. 783, 10-10-2012)

10-5-14: APPROVAL PROCESS:

A. Each project shall comply with the applicable development application procedure and approval processes outlined in chapter 3 of this title. (Ord. 783, 10-10-2012)