



**Land Use and Development Code Update Committee  
Monday, May 1, 2023, 6:00 PM  
Public Meeting Room / Eagle Town Hall  
200 Broadway, Eagle, CO 81631**

*This agenda and the meetings can be viewed at [www.Townofeagle.org](http://www.Townofeagle.org).*

**PUBLIC WIFI – Eagle Guest**

**MEETING ACCESS INFORMATION**

## Microsoft Teams meeting

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**6:00 PM - REGULAR MEETING CALLED TO ORDER**

**APPROVAL OF MINUTES**

Minutes dated April 4, 2023

**DISCUSSION**

Local Employee Residency Program (LERP) and Density Bonus

**FUTURE AGENDA ITEMS**

**ADJOURN**

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

Nikki Davis  
Administrative Technician II



**MEETING MINUTES**  
**Land Use and Development Code Update Committee**  
**Monday, April 4, 2023, 12:00 PM**  
**Public Meeting Room / Eagle Town Hall**  
**200 Broadway, Eagle, CO 81631**

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**PUBLIC WIFI – Eagle Guest**

**MEETING ACCESS INFORMATION**

This was an in-person meeting with access for the public to attend via Teams.

**6:00 PM MEETING CALLED TO ORDER**

Hoiland called the meeting to order at 12:03 PM.

**COMMITTEE MEMBERS PRESENT**

Rick Beveridge, Scott Schlosser,  
Rick Pylman, Allison Kent,  
Scott Turnipseed, Kyle Hoiland

**COMMITTEE MEMBERS ABSENT**

Jack Albertson, Dawn Koenig

**STAFF**

Chad Phillips – Com Dev Director  
Peyton Heitzman – Planner II  
Jessica Lake – Planner II  
Cliff Simonton – Senior Planner  
Tez Hawkins – Planning Consultant (via Teams)  
Elizabeth Garvin – Clarion Associates

**APPROVAL OF MINUTES**

1. Minutes dated March 6, 2023

The minutes were approved as presented.

**OVERVIEW**

**1. Site Layout and Structure Design Standards:**

There are four different sections of Development Style.

Within the categories, there are also geographic-specific standards.

- Does the Town want to create a Design Review Board (DRB)?

- Contractors and homeowners likely oppose DRBs. But want to maintain high design standards.
- Bigger developments are going to present their own design guidelines, development plan and approvals.
- Consider DRB for commercial development & HOA properties. Opposed to “one-off’s” or in-fill in Old Eagle.
- Consider capturing practicality in design standards along with honoring Eagle’s heritage of utilizing locally found materials. There is an appreciation for variety.
- Is this limiting/burdensome to development, just another step?
- The group expressed little interest for residential design standards.
- Formatting
  - Application, introductory statement is too broad. Can it be applied to each development style?
- Structure and site design decisions shall be guided by general design goals. The language is not regulatory because the sections rely on master plan language.
  - Design standards for certain character areas can live in a separate design guide.
  - Clarify when design standards are applicable.
  - Improve cross-referencing within the code language and ensure there is a strong search function.
- Tez (via Teams): City of Wheat Ridge implements what Rick (Beveridge) is talking about. They have an architectural and site development design manual that can be amended a lot easier than zoning or development code. The manual has "shall" and "recommended" statements. What it doesn't do well is intent statements. Intent around the shall statements are important.
- Mix of Housing Types:
  - Are duplicative frontages undesirable?
  - Consider generating a short list of unacceptable/inappropriate design elements.
  - There is an educational component, not everything has to be regulatory.
  - Consider requiring standards for commercial, not residential.
- Fire Protection section needs to be moved to Fire Code.
- Can Common Open Space be addressed through site coverage?
  - Dedication fee will be brought back before Planning & Zoning Commission and Town Council as a policy question.
  - One way to encourage redevelopment is lowering fees and open space requirements.
- Grand Avenue
  - Parking location – should be located 30’ from front parking line.
  - Limiting access from side street. Challenging with lack of alley and easy access.
  - Will the above standards limit redevelopment? Minimize on street parking with limiting % of parking along the Corridor. Or one aisle double loaded.
- Consider downtown Eagle Ranch design guidelines.
  - Problems with building height definition. Phillips liked Haymeadow’s definition.

## 2. Future Agenda Items

The consolidated public draft is still on target to be released by April 17<sup>th</sup>. Staff will regroup with the Code Committee about future agenda topics.

## ADJOURN

Meeting adjourned at 1:40 PM.

## A. Inclusionary Residential Requirements for Local Employee Residency<sup>1</sup>

### 1. Purpose

- a. 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 affordable to a broad range of persons who live and/or work in the Town. In recent years, the cost of housing has increased at a rate much faster than the increases in the earnings of low to moderate income households. This section will prevent the Town's land use regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within Eagle.
- b. The Town of Eagle is committed to increasing the supply of affordable housing in the community to expand the economic vitality that is derived from having a range of housing types, costs, and household incomes. Eagle will benefit from an enhanced community vibrancy generated by the inclusion of inventory of for-sale housing for the local workforce that earns 140 percent of the Area Median Income (AMI) or less, and rental housing for the local workforce that earns 80 percent or less of the AMI.
- ~~c. This section requires new residential development of 10 or more units to provide at least 20 percent of the units at a sale price or rental rate affordable to households that qualify for the Town's affordable housing AMI requirements.~~
- d.c. The Town recognizes that affordable 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 affordable over time are necessary.

### 2. Applicability

- a. ~~Affordable units available for L~~local employee residences shall be required as a condition of approval for all residential development, including:
  - i. ~~n~~New units,
  - ii. ~~r~~Redevelopment that creates new units in excess of any units that originally existed on the site, and
  - iii. ~~l~~infill that is either new development or redevelopment.
- b. ~~An applicant shall not avoid the mandatory provision of affordable units by submitting piecemeal applications or approval requests. Any applicant may submit a development application that intends construction of dwelling units, including applications for preliminary plats, site plans, preliminary development plans, or building permits, for less than the applicable number of dwelling units at any time; but the applicant shall agree in writing that upon the next such application or request, the applicant will comply with this section when the total number of dwelling units at one location has reached the applicable number of dwelling units.~~
- c. ~~Development that was fully and finally approved prior to the effective date of this section shall only be required to comply with these requirements if an amendment is requested to~~

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<sup>1</sup> Current 4.04.110, revised to include updated AMI goals and bonus density.

provide 5 or more additional units in an existing development. When calculating the total number of affordable units required, the total number of units proposed shall only be the additional units and shall not include the existing units.

### 3. Exemptions

The following development is exempt from the requirements of this section:

- a. Development of local employee residences.
- b. Accessory dwelling units.
- c. Proposed rental or for-sale residential development of less than ten units.
- d. 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 C.R.S. § 24-68-103 and Chapter 4.17 prior to the effective date of the ordinance from which this section is derived, or which is otherwise specifically exempt pursuant to an ordinance of the Town.

### 4. Residential Development Requirements

#### a. Number of Local Employee Residences Required

All residential development, approved after the Effective Date, ~~containing ten or more residential units, shall set aside at least 20 percent of those shall set aside the following number of~~ 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 the project shall construct local employee residences in accordance with the Local Employee Residency Requirements and Guidelines. ~~For developments whose calculation results in a fraction of a unit, the local employee residence requirement shall be rounded up or down to the nearest integer.~~

Affordable Units Required	
Number of Units Proposed	Number of Affordable Units Required
0-4 units	0 units
5-7 units	1 unit
8 units and over	20% of total units [1]
[1] If the final calculation of the number of required units includes a fractional unit, if the fraction is 0.5 or higher, the number of units is rounded up to the nearest whole number, and if the fraction is below 0.5 the number of units is rounded down to the nearest whole number.	

#### b. Calculation of Units Proposed

The affordable housing calculation shall be made with the approval of a preliminary plat, development plan, PUD final plan, or other similar planning approval.

#### b.c. Unit Price

- i. For sale units shall be affordable to households whose earnings do not exceed 140%<sup>2</sup> of the AMI.<sup>3</sup> The Town may allow income averaging across units as follows:

<sup>2</sup> Prop 123 funding threshold is 120%, discuss with Code Committee.

<sup>3</sup> How should the LUDC allow income averaging for units? Does the draft approach work?

(a) Small individual unit, condo or single-family attached (<1,000 sf): 80% AMI

(b) Medium-sized individual unit, condo or single-family attached (1,000 – 2,500 sf): 100% AMI

(c) Large individual unit, condo or single-family attached (> 2,500 sf): 120% AMI

(d) Single-family detached unit: 140% AMI

i.ii. For rent units shall be affordable to households whose earnings do not exceed 80% of the AMI. Residential units build to satisfy this requirement shall comply with the Town's affordability AMI requirements described in Section 4.10.080A.1.

#### **d. Credits for Development of Excess Affordable Housing**

##### **i. Award of Credit<sup>4</sup>**

###### **(a) By Agreement**

At the time of affordable unit calculation, an applicant may enter into an agreement with the Town that the applicant shall develop more affordable housing than would otherwise be required under this section.

###### **(b) Certificate of Credit**

Provided that such housing is actually developed, and a certificate of occupancy issued, the Town shall award the developer a credit for each unit in excess of the minimum number required.

###### **(c) Exceptions**

No credit shall be available for any affordable housing built on land donated or sold at a significant discount for the purpose of developing affordable housing in satisfaction of this section or any prior affordable housing requirements of the Town; or for any affordable housing receiving any Town-funded or Town-administered assistance whether financial subsidy, tax relief or other credits or incentives from the Town. However, a development's use of a loan from the U.S. Department of Housing and Urban Development shall not disqualify its affordable housing from generating a credit.

##### **ii. Redemption of Credit**

Credit may be redeemed to offset an equivalent number of affordable housing units that would otherwise be required under this section. Credit shall be freely transferable to any other developer, but shall be transferred in a manner acceptable to the Director so as to ensure accurate tracking of the transfer of credits by the Town. A credit shall expire ten years after it is awarded unless, within that time, the Town executes an agreement with the holder of the credit to apply the credit to a specified development. Before the credit expires, the Director may, upon request, in writing, and for good cause, extend the term of the credit by one additional term of two years.

#### **5. Options to Satisfy Requirement**

##### **a. On-Site Construction**

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<sup>4</sup> Should we separate rental credits from ownership credits, should this just be price related? Should we set a base for credits created by Habitat or LIHTC housing?

- i. On-site affordable unit construction shall be provided to the maximum extent feasible. The affordable units shall be provided at the same site as market-rate units.
- ii. Phasing of construction of affordable units and securities for each phase shall be detailed in an affordable housing development agreement approved by the Town.
- iii. Affordable units must be placed on a fair and equal footing as market-rate units within the governing documents of any homeowners' association or similar entity.

**b. Alternative Compliance**

At the sole discretion of the Town Council, a project's inclusionary housing requirement may be met through alternative compliance in one or a combination of the following ways:

**i. Housing Fee in-Lieu**

- (a) Applicants for residential developments containing 5 or more units may pay a fee in lieu to the Town for each required affordable unit. The fee shall be established by Town Council by resolution during annual fee adoptions or at such time as may be determined by Town Council.
- (b) The in-lieu fee shall be paid at the time of site plan approval, but before any subsequent permits are issued. The fee paid shall be the fee in effect at the time of the final site plan for the development.
- (c) Fee in lieu funds shall be used by the Town for the purposes of planning for, subsidizing, acquisition of properties for, or developing affordable housing in partnership with other organizations and developers whose interest is to provide these housing options.
- (d) The fee in lieu shall be reviewed by the Town annually and, if necessary, a recommendation shall be made to Town Council on whether an adjustment to the fee is warranted in order to meet the purpose of this section.

**ii. Off Site Location**

- (a) A developer may seek to provide affordable units within the Town in a different location than the development of the market-rate units.
- (b) The developer shall provide no less quantity of affordable housing than would have been required on-site.
- (c) The affordable units may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development.
- (d) Existing homes may be acquired and deed restricted as affordable if they are in good repair in the determination of the community services director based on an inspection paid for by the developer but commissioned by the Town, carry a warranty of sufficient scope and duration to protect the resident from significant preexisting deficiencies, and are not already burdened by restrictions requiring them to be kept affordable or restrictions similar in effect.
- (e) No preliminary plat, development plan, or PUD preliminary plan shall be executed for the location of the market-rate units until a preliminary plat sufficient to facilitate the development of the affordable units, and development plan, PUD preliminary plan, if necessary, have been recorded. Phasing and security shall be governed in the same

manner as development of on-site locations. The affordable housing agreement shall run with the land and shall be recorded against the off-site location.

- (f) Approval of the use of this option does not guarantee approval of any land use application or building permit for the off-site location. The developer risks forfeiture of security if unable to build the off-site units as proposed.

### **iii. Land Dedication**

A developer may seek to provide land to the Town in lieu of the development of affordable units. Dedicated land must meet the following standards:

- (a) All off-site infrastructure necessary or proper for the development of the land as affordable housing either:

(i) Must already be in place, and any outstanding obligations paid to neighboring landowners for public infrastructure they installed;

(ii) The developer must agree to build the infrastructure within a timeframe that will not delay the development of the affordable housing and the developer may be required to post securities for the infrastructure via a public improvement agreement; or

(iii) The land donation must be accompanied with additional compensation to the Town sufficient to construct such infrastructure.

- (b) The land must be able to support at least the quantity of affordable housing as would be required on-site, without the need for a variance, modification, rezoning, or reliance on any incentive for affordable housing found in this section, such as a density or height bonus. The developer shall submit a concept plan illustrating how it complies.

- (c) The land must not be encumbered in any manner, including, but not limited to, any lien, outstanding tax or fee accrued, or floodplain, hazards/sustainability/wildlife/ which in any way jeopardizes the Town's ability to develop that quantity of housing.

- (d) The land may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development.

- (e) The land must be dedicated to the Town at the time of execution of the plat or plan allowing the development of the market-rate units.

- (f) The land dedication must be in fee simple and by general warranty deed.

### **c. Redemption of Credits**

A developer may acquire, and redeem credits generated as described in subsection 3 of this section to offset an equivalent quantity of required affordable housing.

## **6. Incentives and Adjustments**

### **a. Applicability**

Development projects that require affordable units may qualify for the following incentives and adjustments. Community Development staff will work with the applicant to identify a combination of incentives and adjustments that will accommodate the development on the site while resulting in the least detrimental impact to the neighborhood and adjoining properties.

**b. Incentives**

In qualifying developments where affordable units will be constructed on-site, the following incentives shall apply:

**i. Fee Reduction<sup>5</sup>**

Applications shall receive a development review fee reduction of \$2,500 per unit for affordable units, not to exceed 50 percent of the total Community Development fee obligation. This fee reduction shall be applied as a rebate to the total of any fees listed in the Community Development Fee Schedule incurred by a project across all required applications. For example, if a final plat and site plan are required, the rebate would be applied to the combined total fees of those two procedures. The rebate would be provided at the time a certificate of occupancy is released for all on-site affordable units required for that particular phase of development.

**ii. Projects with All Affordable Units<sup>6</sup>**

If the proposed development is for construction of all affordable units, a developer may propose alternative adjustments to any numerical bulk or height standard required by the zoning district provided the resulting development complies with the overall purpose of the district and the objectives of this section. Approval of these adjustments are at the discretion of the Town Council and must be approved by the Town Council before the initial approval of the development.

**c. Adjustments**

Community Development staff may apply any combination of the following adjustments to accommodate the inclusion of affordable housing units:

**i. Minimum setbacks or lot widths may be adjusted by up to 20 percent;**

**ii. Maximum lot coverage may be increased by up to 20 percent;**

**iii. Minimum lot size may be reduced by 20 percent;**

**iv. Maximum height may be increased:**

**(a) Original residential zoning district limit of 35 feet may be increased to 40 feet;**

**(b) Height in mixed-use or nonresidential districts may be increased by 1 story, not to exceed an additional 15 feet<sup>7</sup> above the original maximum height;**

**v. The required off-street parking spaces may be reduced to 1.5 spaces per dwelling unit,**

**vi. If a public park or open space are located within 1,320 feet and safely accessible to the development site, any required open space dedication may be reduced by 50%, and<sup>8</sup>**

**vii. A residential structure with one additional unit per affordable unit to the maximum units permitted per lot per Table 4.09-1, or one additional unit to the average of the surrounding, adjoining lots may be added. For example, where a single-family detached unit is allowed, a duplex may be allowed.<sup>9</sup>**

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<sup>5</sup> Does the Town want to tie the amount to AMI?

<sup>6</sup> Should the Town consider more limits for this?

<sup>7</sup> Is this enough extra height?

<sup>8</sup> For discussion in terms of impact on open spaces, parks, and trails?

<sup>9</sup> This is a true density bonus, for discussion.

### **5.7. Location and Character of Local Employee Residences**

Local employee residences shall be a mix of unit types and sizes that are distributed throughout the proposed development, to the extent possible. ~~Off-site local employee residences may be approved, with the developer's consent and in the Town's discretion, at a location to be determined by agreement of the Town and the developer. A cash payment in lieu of the cost of construction of local employee residences may be permitted, with the developer's consent in the Town's discretion, in an amount to be determined by agreement of the Town and the developer.~~ The proposed character and density of local employee residences shall be compatible with the surrounding land uses and neighborhood character, and suitable for the proposed site. Development and construction of local employee residences shall comply with all other requirements of this Code.

### **6.8. 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.

### **7.9. 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. The deed restrictions shall not be subject to any recorded liens or encumbrances.

### **8.10. Local Employee Residency Plan**

- a. All applications for approval of ~~ten or more residential units~~ residential projects that are required to comply with this section, shall be accompanied by a local employee residency plan, unless otherwise determined by the Director. The 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.
- b. Upon receipt of a complete proposed local employee residency plan, the Director shall evaluate the plan for compliance with this section and the Town's Local Employee Residency Requirements and Guidelines. The Director may make a recommendation of approval, recommendation of approval with appropriate conditions, or a recommendation of denial. Following receipt of the Director's recommendation, and as a part of the Town's procedures for review and final approval of the application the reviewing body may decide on the plan.

**B. Density Bonus<sup>10</sup>**

~~Comment: To implement the Eagle Comprehensive Affordable Housing Assessment, a density bonus provision will be added that allows additional height to be added to development that provides affordable housing. Density bonus of up to one story in additional height will be available along Broadway, in the Mixed-Use areas of the West Eagle Sub Area Plan, and areas in the East Eagle Sub Area Plan that front Highway 6 where residential development is anticipated to be allowed. The Town Council will have a review process and decision-making criteria for density bonus requests. A draft of this provision will be posted separately in early May for public review.~~

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<sup>10</sup>New