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6 **ADMINISTRATIVE RULES AND REGULATIONS**
7 **PERTAINING TO THE DIVISION OF HOUSING.**
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9 **I. Effective date.** These administrative rules and regulations (“workforce housing
10 regulations”) are effective upon publication as required under 1-18-3 of the municipal code.

11 **II. Authority and purpose.** These regulations are issued by the division of housing
12 of the Town of Breckenridge per title 9, chapter 16, of the municipal code. These workforce
13 housing regulations elaborate on the requirements of chapter 16, title 9 located at
14 https://breckenridge.town.codes/Code/9_Ch16 and are intended to address the additional
15 criteria governing the Town’s workforce housing where the Town has contributed staff time
16 and/or financial resources. These workforce housing regulations hereby supersede and
17 terminate prior guidelines and administrative regulations as referenced in existing restrictive
18 covenants.

19 **III. Background.** In May of 2000, the then Town Council of the Town of
20 Breckenridge adopted an Affordable Housing Strategy, dated May 23, 2000, copy attached
21 hereto as **Exhibit A**. The 2000 housing study, among other things, conducted a housing needs
22 assessment, adopted the initial administrative rules and regulations and recommended that the
23 same be consistent as reasonably practical with the housing practices of Summit County,
24 identified the Town’s regulatory role, and prioritized allocating resources to the needs of the
25 Town, Summit County, as well as Upper Blue Basin.

26 Since that 2000 needs assessment study, the Town has done a workforce housing
27 needs assessment approximately every five years, each of which has concluded continued
28 need for additional workforce housing units. A multi-jurisdictional housing authority (SCHA) was
29 created in 2006 (Resolution 2006, Series 1) and the Town created a Town of Breckenridge
30 Housing Authority in 2015 (Resolution 2015, Series 1). Moreover, the Town has adopted a
31 number of resolutions and ordinances building on the earlier work including, the Town Council
32 approved a resolution dated December 12, 2017 further amending and adopting the Town of
33 Breckenridge administrative rules and regulations, a copy attached hereto as **Exhibit B**.

1 *Primary Residence* means the place in which a person's habitation is the person's usual place
2 of return. A person can have only one (1) primary residence.

3 *Purchase Price* shall mean all consideration paid by the purchaser to the seller for a unit.

4 *Qualified Occupant* means a person and their dependents, if any, who at all times during
5 ownership or occupancy of the unit: (i) earns his or her living from a business operating in and
6 serving Summit County, and (ii) works in Summit County at such business an average of at
7 least thirty (30) hours per week on an annual basis or (iii) otherwise meets an exception of the
8 municipal code and/or these workforce housing regulations.

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10 *Employed within Summit County* means that the person earns their living from a business or
11 organization operating in and serving Summit County, which requires their physical presence
12 within the boundaries of Summit County in order to complete the task or furnish the service, by
13 working at such business or organization an average of at least thirty (30) hours per week on an
14 annual basis. Employed within Summit County does not mean remote working for a business
15 that is not located in and serving Summit County.

16 *Qualified Owner* a natural person or an approved local employer.

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18 *Restrictive Covenant* means a covenant imposing conditions on the use of real property.

19 *Unit* means a physical portion of the property to be constructed for purposes of residential use
20 only and may be created as a separate transferable real property interest by the filing of
21 subdivision or similar plat(s) or map(s).

22 *Workforce Housing* means employee housing or workforce housing as defined in 9-1-5 and 9-1-
23 16 of the development code.

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3 **ARTICLE 2 - GENERAL PROVISIONS**
4 **APPLICABLE TO ALL WORKFORCE HOUSING UNITS**
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6 **I. Use and Occupancy Regulations**

7 A. Each unit shall be used and occupied only by a qualified occupant as their primary
8 residence. Units must be occupied a minimum of 9 months within any 12 month period.

9 B. A person who is self-employed and/or works from home may be authorized in writing as
10 a qualified occupant if they meet the following criteria:

11 1. Work an average of at least thirty (30) hours per week on an annual basis for a business
12 that is located within and Summit County and the business requires their physical presence
13 within the boundaries of Summit County in order to complete the task or furnish the service;

14 and,

15 2. Demonstrates they are earning at least minimum wage from this employment.

16 C. Units that require owner occupancy pursuant to a restrictive covenant may not be
17 rented for more than a maximum of 12 months cumulative during the term of an owners
18 ownership, and may only be rented to an authorized Lessee. Owners may rent rooms within the
19 unit to qualified occupants at a rental rate approved by the Town.
20

21 **D. Exceptions**

22 1. Retirees: An occupant who owns a home and has claimed retirement status may be
23 authorized to retire and remain in deed-restricted units, if the person is age 65 years or older if
24 such person has occupied the unit as a qualified occupant for a minimum of seven (7)
25 consecutive years prior to ceasing to be a qualified occupant.

26 2. Persons with a disability: A person who becomes disabled after commencing ownership
27 or occupancy of a unit, when such disability prevents the person(s) from working the required
28 number of hours set forth in the deed restriction, may be permitted to remain in their unit for a
29 period of time of unemployment if authorized in writing by the Town.

30 3. Relief in extraordinary circumstances:

31 a. A person may request relief from these workforce housing regulations and/or the
32 terms of a restrictive covenant by filing a request in writing to the division of housing setting forth
33 a narrative explaining the need for the exception as well as written evidence confirming the

1 reason for the request, including, but not limited to, such items as: a former employer's
2 documentation of involuntary unemployment; confirmation of employment requiring a relocation.

3 b. Within thirty (30) days or within a reasonable timeframe of receipt of a written
4 request for relief, the housing director shall review and make a determination as to whether
5 relief is warranted and may grant an exception to an occupancy requirement for any qualifying
6 circumstance(s) upon finding that:

7 i. The qualifying circumstance(s) justifying the grant of an exception to the
8 restrictive covenant is a circumstance that has transpired subsequent to occupancy of the unit
9 and/or is outside the control of the applicant to correct; and,

10 ii. Strict application of the terms of the restrictive covenant would result in a
11 significant hardship on the qualified owner; and,

12 iii. The grant of the requested exception is limited to the scope necessary to grant
13 reasonable relief to the applicant, consistent with the intent and purpose of the restrictive
14 covenant, and will not have an adverse effect on the community or surrounding neighborhood.

15 c. If the exception is granted, the director may impose specific conditions of
16 approval, and shall establish the duration of the term of such exception.

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18 **II. Resale/Lottery/Notice of Intent to Sell.**

19 A. An owner shall promptly notify the Town, or its designee when they intend to sell any
20 workforce housing unit in the form attached hereto as **Exhibit D**.

21 B. The Town reserves the right to require that properties be sold via a lottery process and
22 /or through the Summit Combined Housing Authority, with such process to be determined by the
23 Town at the time of sale, in general conformance with these workforce housing regulations. The
24 Town shall have ten (10) days after receiving the notice of intent to sell to determine whether a
25 lottery will be required.

26 C. When the Town is selling Town-owned assets, including buy down units, the Town may
27 utilize the SCHA to sell units, but the Town also has the right to sell units directly to Town
28 employees and/or utilize other realtors to provide marketing services based on market
29 conditions and employee recruitment/retention needs. When selling units the Town will prioritize
30 hard to fill positions, full time employees, critical recruitments, duration of employment, etc. The
31 Town has the right to set resale prices based on comparable units and market conditions. The
32 Town may also utilize Town-owned assets, including buy downs as temporary transitional
33 housing pursuant to policies established by the Town.

1 D. For deed restricted units with an appreciation cap, each buyer must sign an appreciation
2 limiting promissory note and a deed of trust at the time of purchase of a unit. at the time of sale,
3 the town will release the deed of trust after confirming the resale price does not exceed the
4 maximum per the appreciation formula. a new note and deed of trust is executed with the new
5 buyer.

6 **III. Income Testing**

7 A. To the extent the Town requires income testing, it shall be done only at the time a
8 person purchases or leases a unit. The income of any person (s) on a deed, loan or filing jointly
9 as a household shall be counted for determining the household income, except for non-
10 occupant co-borrowers who do not occupy or use the unit.

11 B. Additional income obtained by persons in an eligible household after purchasing or
12 leasing the unit shall not have any effect on the household's qualifications or income
13 classification under this restriction. For the purpose of capping income and qualifying
14 households, the Town will use the actual household size or 1.5 persons per bedroom whichever
15 is greater. The Town will generally allow a 30% buffer between the price cap and the income
16 cap to provide flexibility for homebuyers to qualify for financing without being cost burdened.

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18 **IV. Priority of Purchase Based on Area Needs.**

19 Based upon the purpose and intent of each individual affordable workforce housing
20 development, certain categories of applicants may be given priority in the purchase or rental of
21 housing units within a particular development. Examples of categories of applicants that may be
22 granted priority status include the following:

- 23 • Area Employees: To facilitate reductions in traffic and automobile use throughout
24 the County, persons employed within a specific geographic area proximate to the
25 proposed development.
- 26 • Persons needed for the Town workforce or with longevity living or working in
27 Summit County.
- 28 • Lower income households within the approved income range for qualified buyers
29 or renters.
- 30 • If a development allows employer-owned units, priority may be given to persons
31 who wish to purchase a unit, before opening up the sale to local employers and
32 businesses.

1 **V. Terms and Recording of Restrictive Covenant.**

2 A. Each workforce housing unit shall be governed by a restrictive covenant that:

3 1. Mandates that occupancy shall be by a qualified occupant and may not be left vacant
4 pursuant to article 2.

5 2. Shall include a provision that relief may be granted from its terms in extraordinary
6 circumstances, consistent with article 2.

7 3. Shall be recorded with the Summit County Clerk and Recorded and shall run with the
8 land in perpetuity.

9 4. Shall include language to protect the restrictive covenant from being released in the
10 event of a foreclosure, to the greatest extent possible. Restrictive covenants shall further specify
11 that, if the restrictive covenant is released in the event of a foreclosure, the Town or its assignee
12 shall have the first right of refusal to purchase the unit, in order to preserve the unit as
13 affordable workforce housing to the greatest extent possible.

14 B. The division of housing has discretion to include any other provisions that the Town
15 deems necessary and warranted based on current market conditions and other project specific
16 considerations including, covenants limiting the maximum resale price or rental price as the
17 case may be, restricting owners from owning other residential property within Summit County or
18 the State, income testing requirements, if any, allowance for local employers to acquire deed
19 restricted units for sale or rental for workforce based on terms established by the Town.

20 C. Asset tests may be required by the Town in specific restrictive covenants depending on
21 the price point.

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23 **ARTICLE 3 – REGULATIONS APPLICABLE TO RENTAL UNITS**

24 A. Minimum Lease Term: When rental of an affordable workforce housing unit is
25 authorized, all rental contracts shall be at least three (3) consecutive months in duration. Any
26 such tenancy approved by the Town of Breckenridge shall be to a person meeting the definition
27 of a Qualified Occupant. Unrelated roommates must all be qualified occupants and must all be
28 included as tenants on the lease.

29 B. The Town will establish a maximum rental rate of each rental unit based on factors
30 including the market conditions, the type of development and/or the AMI targets.

31 C. Use as a Short-term Rental Prohibited: Rental units may not be used for or be eligible
32 for short-term rental as defined in title 4 of the municipal code.

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1 **ARTICLE 4 – REGULATIONS APPLICABLE TO HOME OWNERSHIP REALES**

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3 A. An owner shall not encumber a unit with debt, including by means of refinancing,
4 exclusive of interest, in any form which exceeds at any time, 100% of the maximum resale price.

5 B. Condition of Unit at Resale: Each owner shall be responsible for ensuring that
6 the unit is in good condition at the time of resale at the owner’s sole expense, with reasonable
7 wear and tear acceptable. This obligation includes all matters which are in the control and
8 responsibility of an owner, and includes, but is not limited to:

9 1. Cleaning the unit and making necessary repairs, maintain plumbing, mechanical
10 fixtures, appliances, carpet or other flooring, roofs, painting and other similar items in good
11 working order and condition.

12 2. The unit must contain all of the appliances that originally came with the unit, of
13 similar standard.

14 3. The owner must comply with the Town code and there must be no outstanding
15 Town code violations.

16 C. In no event shall a unit be sold for an amount in excess of the Maximum Resale
17 Price.

18 1. The Maximum Resale Price is determined in accordance with the following
19 formula:

20 a. Initial Purchase price plus:

21
22 b. Appreciation: 2% of the initial purchase price per year from the acquisition to the
23 date of an owner’s resale date (pro-rated at the rate of .167 percent for each whole month for
24 any part of a year), which percentage shall be calculated annually without compounding, plus

25 c. Allowance for Capital Improvements: At the time of resale, the seller/owner may
26 add permitted capital improvements that were made to the Unit by that seller/owner. The
27 amount that may be added into the resale calculation is capped at ten percent (10%) of the
28 original purchase price paid by the first buyer to the developer or to the Town as established in
29 the original Promissory Note, plus

30 d. Additional Maintenance Incentives. In addition to the permitted capital
31 improvements, deed restricted properties with an appreciation cap are entitled to increase the
32 sale price of their property for the purpose of approved maintenance items. All owners must
33 submit the cost of the qualified maintenance items to the Town prior to the sale of the property.

1 Because many deed restricted neighborhoods were developed before these rules and
2 regulations were established there are formulas specific to different neighborhoods that have
3 been created to allow a maintenance incentive without negatively impacting affordability over
4 time. Owners in the existing neighborhoods may opt into the maintenance incentive, but are
5 required to execute an amended and restated restrictive covenant in order to do so. The formula
6 for each neighborhood as well as the current standard for maintenance is listed in **Exhibit E**,
7 attached hereto. The maximum allowance for maintenance incentive that can be added is 3% of
8 the sellers purchase price.

9 e. Real estate sales commission and closing costs. Except as otherwise provided in
10 an existing recorded restrictive covenant, the maximum real estate costs that may be added to
11 the price is 2%. For sale by owner is not authorized to include any real state commission
12 unless the owner is a real estate broker licensed according to the laws of the State of Colorado.
13 The 2% includes real estate commission and closing costs actually incurred by the seller in
14 connection with the sale of the unit.

15 f. No Additional Consideration: The Owner shall not accept any other
16 consideration which would cause an increase in the purchase price above the Maximum Resale
17 Price so as to induce the Owner to sell to such prospective buyer. An Appreciation Limiting
18 Promissory Note and an Appreciation Limiting Deed of Trust are required as part of the sale for
19 all appreciation capped unit. The Note and Trust is required to affirm that the sale price does not
20 exceed the Maximum Sale Price. The seller and buyer may be required to also execute a notice
21 of lien and /or confirm that the sale was not contingent upon the sale of any other personal
22 property and that no other compensation was required from the buyer.

23 **ARTICLE 5- COMPLIANCE AND ENFORCEMENT**

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26 Failure to comply with the municipal code, these workforce housing regulations, or any
27 of terms of a restrictive covenant may result in penalties being imposed in accordance with any
28 and all relief available.

29 Dated:

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31 _____
32 Laurie Best, Division of Housing