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**CITY OF RIFLE, COLORADO
ORDINANCE NO. 5
SERIES OF 2008**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIFLE,
COLORADO ADOPTING AN WORKFORCE HOUSING INCENTIVES
PILOT PROGRAM.

WHEREAS, in recent years housing prices and construction costs in the City of Rifle have increased significantly, creating a disparity between the cost of housing and income levels of residents that creates substantial hardship for many individuals and families; and

WHEREAS, City staff has engaged in preliminary discussions with area developers about housing solutions to develop a pilot incentive program that responds to the housing needs and construction challenges by varying certain zoning regulations and waiving certain development fees for participating eligible developers; and

WHEREAS, rather than establishing permanent workforce housing regulations at this time, the City wishes to adopt a voluntary workforce housing incentive s pilot program with a one-year sunset provision, at which time staff will analyze the results of the program and determine whether the Rifle Municipal Code should be amended to implement workforce housing incentives and/or a mandatory program; and

WHEREAS, the Planning Commission considered the text of this Ordinance during a public hearing at its March 25, 2008 meeting and recommended that the City Council adopt the workforce housing incentives pilot program contained herein.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. The foregoing recitals are incorporated herein as if set forth in full.
2. The following Workforce Housing Incentives Pilot Program is hereby adopted:

City of Rifle Workforce Housing Incentives Pilot Program

Section 1. Definitions and Requirements

Workforce housing means residential dwelling units for ownership constructed pursuant to this Ordinance, the total cost of which is affordable to families earning 115% or less of the household Area Median Income for Garfield County for a four (4) person household regardless of the number of persons in the household, as published annually by the U.S. Department of Housing and Urban Development. The workforce housing unit shall at all times be owner-occupied by an eligible purchaser, as defined herein, and no portion shall be leased or rented to a non-eligible purchaser. This Ordinance and the incentives contained herein shall be limited to twenty-five (25) workforce housing units to be

applied for by qualified developers on a first-come basis during the twelve month term of this Workforce Housing Incentives Pilot Program.

Eligible purchaser means any person who is a full time resident employee employed within the corporate boundaries of the City or who is employed in a position with a school district, state, federal or County government at a location shown on the map attached hereto as Exhibit A and incorporated herein by this reference. For purposes of this Workforce Housing Incentives Pilot Program, a full time resident employee is one who works or will work at least thirty-two (32) hours per week and will live at least nine (9) months per year in the workforce housing unit. A person who has been recruited to work for a City based employment source must produce evidence of the offer of employment. Only one (1) member of the household must be an eligible purchaser to satisfy the requirements of this definition; provided, however, for the initial purchase of an workforce housing unit, the total household income may not exceed 115% of the household Area Median Income for Garfield County, as published annually by the U.S. Department of Housing and Urban Development, and household assets may not exceed \$100,000, excluding retirement financial plans approved by the U.S. Internal Revenue Service. Applications for workforce housing units shall be taken by the Garfield County Housing Authority (the "Housing Authority"), reviewed for eligibility, and successful applicants chosen by lottery through guidelines established by the Housing Authority consistent with the terms contained herein and formulated through consultation with the City. Final determination of eligibility shall be made by the Housing Authority, and any appeal shall be heard before the Housing Authority Board of Directors pursuant to procedures adopted by the Housing Authority. The only remedy available to a grieved party shall be participation in a future lottery. An eligible purchaser may only finance a workforce housing unit with a loan from an Institutional Lender which is secured by a First Deed of Trust. For the purpose of this limitation, an "Institutional Lender" means any bank, savings and loan association, or any other institutional lender which is licensed to engage in the business of providing purchase money mortgage financing for residential real estate; and a "First Deed of Trust" means a deed of trust or mortgage which is recorded senior to any other deed of trust or lien against the unit to secure a loan used to purchase the unit

Qualified developer means any person who is constructing new residential housing within the City and who is contractually bound, through financing arrangements or otherwise, by the City or a governmental or nonprofit agency other than the City, to provide restricted resale prices or establish an appreciation cap by deed restriction acceptable to the City for workforce housing units as set forth herein for a period of at least ten (10) years.

Section 2. Program requirements.

To be eligible for the fee exemption and zoning incentives established in Sections 3 and 4, qualified developers must at a minimum adhere to the following Workforce Housing Incentives Pilot Program requirements.

(a) Profit Cap. The cost of workforce housing units shall consist of, and qualified developers shall agree to cap gross profits and developer costs based on the hard costs of labor and material for the unit, as follows:

- 15% for developer overhead
- 1% for miscellaneous costs
- 2% for cost of developer's financing
- 12% for developer profit
- 1% commission to Housing Authority
- City water and sewer tap fees
- Actual lot price paid by developer

Documentation of such profit cap shall be submitted to the City's satisfaction in accordance with the submittal requirements of Section 5 herein.

(b) Deed restriction. All workforce housing units shall be deed-restricted for a period of at least ten (10) years in accordance with a deed restriction enforceable in the State, as approved by the City Attorney, to ownership by an eligible purchaser. Upon the successful application under this program and prior to the issuance of a building permit with an exemption of fees and zoning incentives provided for in Section 3 and 4, the qualified developer shall record the deed restriction against the property. The City shall be the beneficiary of the deed restriction with the right to release its encumbrance of the property. At any time an owner no longer satisfies the definition of eligible purchaser for a period that exceeds twelve (12) consecutive months, which does not include household income limitations, the workforce housing shall be sold and the City shall have the right to specific performance of this provision. Resale of workforce units will not exceed the purchase price plus the annual percentage increase in the West Region, Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W) (1982-84 = 100), not seasonally adjusted, published by the U.S. Department of Labor, Bureau of Labor Statistics, or 3.0%, not compounded, whichever is greater. The deed restriction will regulate appreciation, future sales based on employment and income requirements, and appreciation rates.

(c) Sale to eligible purchaser/Re-certification. To qualify for program benefits, all workforce housing units must be deeded only to eligible purchasers as defined in Section 1. Eligible purchasers shall be re-certified no less than every two (2) years to ensure compliance with the terms of this Ordinance.

(d) Maximum Sale Price. The initial sale price of a workforce housing unit shall not exceed \$240,000.00.

(e) Commission to Housing Authority. The Housing Authority shall receive a one percent (1%) commission on the sale price of a workforce housing unit to be paid by a qualified developer with the initial sale, and by the seller on any subsequent re-sale of the unit, to cover the Housing Authority's marketing of the unit and administration of this program

Section 3. Exemption from fees.

Qualified developers of workforce housing shall be eligible for partial or total exemption from the following fees to the extent these fees would otherwise be applied to the development:

- (1) Any development review fee required under Rifle Municipal Code ("RMC") Section 16-1-60.
- (2) Any building permit and construction fee required under RMC Chapter 18, Article XIII.
- (3) Any water rights dedication fee required under RMC Section 13-6-10, *et. seq*
- (4) Any parkland dedication fee required under RMC Sections 16-4-110 and 16-1-90.
- (5) Any offsite street impact fee required under RMC Section 16-1-100.
- (6) Any Northeast Tank Upper Pressure Zone impact fee required under RMC Section 13-4-80.
- (7) Any Fairway Avenue construction impact fee or 24th Street completion fee required under RMC Section 16-15-160.
- (8) Any Regional Surface Drainage surcharge required under RMC Section 16-17-50.
- (9) The payment of Use Tax required by RMC Section 4-2-210.
- (10) Water and sewer system development fees may be paid prior to the issuance of a certificate of occupancy rather than at building permit.

Section 4. Zoning incentives.

As incentive to qualified developers meeting the requirements of the Workforce Housing Incentives Pilot Program, the City agrees to the following modifications to its zoning regulations established at Chapter 16 of the RMC.

- (1) Minimum lot sizes. The City agrees to reduce minimum lot sizes for all residential zone districts as established in Section 16-3-330 of the RMC by ten percent (10%).
- (2) Set back requirements. The City agrees to grant the following modifications to the setback requirements established at Section 16-3-330 of the RMC.
 - (i) Side yard set back: 5 feet regardless of height, provided, however there must be at least ten (10) feet between buildings.
 - (ii) Rear and front yard set backs: up to four feet encroachments for 30% of the lot width (not to exceed 50% of the total house width) with garage set back a minimum of 20 feet from the lot line.

Section 5. Application for exemptions; contract required.

(a) A qualified developer may request exemption from any or all of the fees set forth in Section 2 above by submitting written application to the City in conjunction with development or subdivision review for the project. The developer shall submit written proof of eligibility demonstrating to the satisfaction of the City that the developer and the development meet the requirements of this Section as well as proof of profit margin reductions as specified in Section 2, including, proposed sale price, construction plans, inclusions such as appliances, finishes and landscaping. The developer shall further submit written documentation disclosing its ownership structure, a project financial statement which includes disclosure on its profit margin for the project, and any and all other documentation requested by the City applicable to this program. All financial information related to the developer shall be retained by the City Attorney, or in the City's discretion, certified by the institutional lender. Failure to provide such documentation shall disqualify a developer from the fee exemption and zoning incentives provided in Sections 3 and 4.

(b) Final determination of eligibility of a qualified developer workforce housing project shall be made by the City. City staff shall have the discretion to submit an application for review and approval of the City Planning Commission for any reason. If the City authorizes a partial or total fee waiver, the qualified developer and the City shall enter into a contract with a term of at least ten (10) years guaranteeing that the development shall remain as workforce housing as consideration for the exemption granted by the City. The City shall have the discretion to deny an application for fee waiver if it is dissatisfied in any way with the content of

the written documentation. Upon the completion of the construction of the workforce housing unit, and prior to the issuance of a certificate of occupancy, the City shall inspect the unit for compliance with the construction plans provided in the application. If any discrepancy exists, the City may withhold the certificate of occupancy until the developer brings the unit into compliance. In the event the developer cannot sell an workforce housing unit after reasonable marketing efforts have been made in cooperation with the Housing Authority for at least six (6) months, the developer may request that the City release developer from the requirements of this Ordinance and the deed restriction upon the payment of all fees, taxes and charges waived by the City. In addition, the developer must reimburse the Housing Authority all of its costs associated with marketing the unit prior to the City's release.

(c) In the case of developments in which some, but not all, of the residences are proposed as workforce housing, the City shall prorate the exemption provided herein based upon the proportion of the development devoted to workforce housing.

(d) Any exemption granted by the City pursuant to this Section shall not be construed to excuse the developer from the performance of any other duty or obligation as required by the Rifle Municipal Code, including, but not limited to, re-zoning or subdivision applications and the associated costs, fees and charges therefore. Except as specifically provided in this Ordinance, workforce housing projects shall comply with all provisions of this Code.

(e) Notwithstanding any provisions of this Ordinance to the contrary, if the City determines, in its discretion, that it is not in the best interest of the City due to financial considerations to grant fee exemptions as provided herein, the City Council may decline to grant any fee exemptions for a particular project or for a particular period of time.

3. The Workforce Housing Incentive Pilot Program established herein shall be effective as of the date of final approval by the City Council and shall continue in full force and effect until **April 30, 2009**. Any applications received by the City by this date may participate in the Program subject to the terms and conditions contained herein and the 25 workforce housing unit limitation. At the time of sunset, the City Council shall have the option to extend the term of the Pilot Program, terminate it, or modify it as it sees fit.

INTRODUCED on April 2, 2008, read by title, passed on first reading, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on April 16, 2008, passed with amendment, approved, and ordered published in full as required by the Charter.

DATED this 12 day of may, 2008.

CITY OF RIFLE, COLORADO

By



Mayor

ATTEST:



City Clerk

