



Density Bonus Policy

(adopted by Town Council on 4/22/21)

Provision of workforce housing options is a critical Town Council goal. To achieve more affordable housing units within the community, the Town Council may, at its discretion and upon a recommendation from the Town Planning Commission, consider an increase (bonus) to the number of housing units (density) permitted on a lot by the underlying zoning district or overlay district. Council may also consider a waiver for certain development requirements associated with the project in order to facilitate additional density for the public purpose of creating workforce housing units.

A. Policy Goals:

1. Provide an incentive for developers to achieve more units that will serve low- or moderate-income individuals and thereby address an important gap in the local housing market.
2. Maximize the buildable area on a lot, therefore assisting with the provision of additional units.
3. Provide transparency and predictability in the development process for establishing additional density or development standards waivers.
4. Provide an avenue for developers to voluntarily add units to assist in creating workforce housing.
5. Providing incentives that have little or no direct cost to taxpayers for housing options.
6. Implement policy recommendations from the Smart Growth America Report (2017), Town Comprehensive Plan (2018), and Pagosa Housing Partners' Roadmap to Affordable Housing (2019).

B. Policy Details

1. Who Can Participate:

Developments and redevelopment projects with a minimum of two (2) allowable for sale or rental units will be considered for the program to qualify for a density bonus for additional units, height, setback, landscaping, or parking waivers. Developers are encouraged to approach the Town with creative projects that utilize the program for workforce housing.

2. Granting of Bonus:

- i. The Town Council may grant a density bonus of up to 50% of the number of allowable units permitted in the underlying zoning district/overlay district should units be rented or for sale for individuals at 120% or below Area Median Income (AMI), with associated rental or for sale limits for individuals at 120% or below AMI.
- ii. AMI and allowable rental limits are inclusive of utilities and are provided by Colorado Housing and Finance Authority and updated on an annual basis. Figures on for-sale units include taxes, insurance, and HOA dues. Council may also grant waivers of development standards associated with the project if it is required to meet the additional density.

- iii. At least 25% of the total units in the project (including the density bonus units) must be rented or sold at 120% of AMI or below during the property restriction period. In no case shall the total number of units on the lot (both allowed and additional through the density bonus program) exceed a 50% increase over the number allowed by the underlying zoning district or overlay district. Units will be calculated such that at a half point and above, the Town will round up for allowable and additional units.
- iv. The number of units permitted (both allowed as a use by right and granted through a density bonus) shall be inclusive of all unit types on the property. For example, an accessory dwelling unit shall be included in the calculation of the number of allowable units.
- v. **Property Restriction Period:** The property shall be deed-restricted (through a restrictive covenant) to ensure a minimum of seven years per unit. The amount of deed restricted time shall be proportional to the amount of public subsidies provided in the project, including additional units and flexible development standards provided. The Town Council may authorize Town staff to negotiate a restrictive covenant or development agreement that exceeds this timeline, with the ideal range of 10-20 years. The goal is to keep the unit as an AMI affordable unit for as long as possible, and in the case of significant public subsidies such as low-income housing tax credits, land or low-cost leases, and other subsidies, properties may be restricted for up to 40 years or in perpetuity, regardless of the ownership of the unit. A voluntary agreement between the property owner and the Town shall be executed, detailing the restriction period and any clause regarding sale of units and any documents to be recorded with the property.

3. Other Considerations:

- i. All units, including those allowed and additional proposed, shall be subject to all other building code and land use and development standards.
- ii. Additional units may increase the building height above allowable height restrictions, encroach into setbacks, require additional parking, etc. Any variance or waiver from the provisions of the LUDC shall only be considered with a proposed and acceptable mitigation plan, which the Town Council/Planning Commission may accept in their reasonable discretion.
- iii. The property owner shall, at its expense, provide for an annual monitoring report by a chosen firm to ensure that the development conforms to the agreement for the duration of the deed restriction.
- iv. Density bonus additional units shall be of similar quality to allowable units. The developer may elect to have a range of sizes, rates, and finishes that are similar in scope to the allowable units.
- v. Additional units may not be used as short-term rentals during the restriction period.

C. Application and Review Process

The property owner/developer shall make a formal written request to the Town’s Planning Director, and provide, at minimum the following information:

- ✓ Description of the project and overall plan
- ✓ Number, size and type of units (e.g. one bedroom, studio, etc.) *permitted* in the development and rental or for-sale amounts
- ✓ Number, size and type of units proposed in the development for *additional units* for which the density bonus is sought
- ✓ Breakdown for all units by AMI targets
- ✓ Site plan/sketch plan and elevation rendering depicting the utilization of the additional units, including information on how the mitigation factors will be managed (e.g. parking, storage, building height, landscaping, access, etc.)
- ✓ Information on any waiver requests for height restriction, lot coverage, landscaping, setbacks and other needed to accommodate the proposed project
- ✓ Proposed construction timeline
- ✓ Any other information specific to the project or site that explains the need for the request

The application shall be considered first by the Planning Commission, typically in congruence with sketch major design application. After a recommendation is made by the Planning Commission, the Town Council shall consider the request following a public hearing.

D. Review Considerations

When considering whether to grant a density bonus and development standard waivers, the Planning Commission and the Town Council shall weigh the following:

- Whether this policy’s goals are met through the proposed project; and
- The amount of public benefit gained from the proposed inclusion of workforce housing units within the proposed project; and
- Whether the mitigation plan appropriately reduces or negates any negative impacts on the surrounding neighborhood or adjacent property owners; and
- Whether the site can accommodate this type of additional density; and
- Whether the proposed project meets with the context of the surrounding neighborhood/area.

Attachments:

2020 AMI and Rental Limits (note includes utilities)-source is Colorado Housing and Finance Authority

Underlying density tables from LUDC



denver

1981 Blake Street
Denver, CO 80202

303.297.chfa (2432)
800.877.chfa (2432)

PO Box 60
Denver, CO 80201

800.659.2656 tdd
www.chfainfo.com

western slope

348 Main Street
Grand Junction, CO 81501

970.241.2341
800.877.8450

memorandum

to: Multifamily Housing Owners and Managers
from: Chris J. Linton, Manager, Multifamily Program Compliance
date: April 9, 2020
subject: 2020 Colorado Income Limits and Maximum Rents for Developments with LIHTC and CHFA Loans

Attached are the 2020 Colorado income limit and maximum rent tables. The tables are also located online at: www.chfainfo.com/arh/asset/Documents/2020_income_limits.pdf.

On 03.31.2020, HUD released the FY2020 Multifamily Tax Subsidy Program income limits, effective 04.01.2020. IRS Revenue Ruling 94-57 allows taxpayers (i.e., LIHTC project owners) to rely on the previous year's income limits until 45 days after HUD has released new income limits, or until the effective date, whichever is later. Therefore, the 2020 income and rent limits must be implemented no later than May 15, 2020. The same timeframe applies to multifamily developments financed with CHFA loans.

Exceptions: The IRS allows two types of protection from rent decreases: HERA special limits and the hold harmless rule. While only some LIHTC projects may use HERA Special limits, all LIHTC projects are "held harmless" from decreases in limits. To identify the correct limits for your project, you must know its placed in service (PIS) date.

- In 2020, HERA Special limits are in place in 21 Colorado counties. To apply HERA Special limits, a LIHTC project must have PIS as of 12.31.2008. HERA limits do not apply to properties that were not financed with LIHTC (e.g., properties with only CHFA loans).
- Remember, once your LIHTC project is placed in service, it is not subject to any decrease in limits. To be "held harmless," a LIHTC project must have PIS prior to the implementation date of the new limits. This year, LIHTC projects whose counties experienced a decrease in limits and PIS before 05.15.2020, may continue to apply the same limits they used in 2019. As of 2020, CHFA extends this hold harmless protection to all multifamily developments financed with loans through CHFA, regardless of whether they were also financed with LIHTC.
- New projects that place in service on or after 05.15.2020, must use the 2020 income limits.

Utility Allowance Reminder: As a reminder, updated utility allowances must be implemented no sooner and no later than the first day immediately following the 90-day period that begins with the new utility allowance schedule's effective date. To remain compliant when allowances increase and tenant rent must be decreased not to exceed the maximum rent, ensure that rents are lowered immediately following the 90-day period. Do not wait until a household is due for annual recertification to lower rents. For detailed guidance and exceptions, see CHFA's Utility Allowance Memo at www.chfainfo.com/arh/asset/mfl_lihtc_resources/utility_allowance.pdf.

Rent Increases: Any rent increases associated with higher maximum rents or utility allowance decreases may be implemented at lease renewal only. CHFA does not permit mid-lease term rent increases unless required by the Section 8, USDA Rural Development, or similar rental assistance programs.

If you have any questions, please contact your Program Compliance Officer.



2020 Income Limit and Maximum Rent Limit Tables
for All Colorado Counties
20% to 120% of Area Median Income (AMI)

HUD Effective Date: April 01, 2020

- The IRS allows LIHTC projects that placed in service as of 12.31.2008 to use higher HERA Special limits.
- All LIHTC and CHFA Loan projects are "held harmless" from limit decreases. To be "held harmless," a project must be in service before 05.15.2020.
- This year, LIHTC and CHFA Loan projects whose counties experienced a decrease in limits and that place in service before 05.15.2020 may continue to apply the same limits used in 2019.

COUNTY	2020 MAXIMUM RENTS							2020 INCOME LIMITS							
	HERA	AMI	0 BDRM	1 BDRM	2 BDRM	3 BDRM	4 BDRM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Archuleta	Y	60%	781	837	1,005	1,161	1,296	31,260	35,760	40,200	44,640	48,240	51,840	55,380	58,980
Archuleta	Y	55%	716	767	921	1,064	1,188	28,655	32,780	36,850	40,920	44,220	47,520	50,765	54,065
Archuleta	Y	50%	651	698	837	967	1,080	26,050	29,800	33,500	37,200	40,200	43,200	46,150	49,150
Archuleta	Y	45%	586	628	753	870	972	23,445	26,820	30,150	33,480	36,180	38,880	41,535	44,235
Archuleta	Y	40%	521	558	670	774	864	20,840	23,840	26,800	29,760	32,160	34,560	36,920	39,320
Archuleta	Y	30%	390	418	502	580	648	15,630	17,880	20,100	22,320	24,120	25,920	27,690	29,490
Archuleta		120%	1,491	1,597	1,917	2,215	2,472	59,640	68,160	76,680	85,200	92,040	98,880	105,720	112,560
Archuleta		100%	1,242	1,331	1,597	1,846	2,060	49,700	56,800	63,900	71,000	76,700	82,400	88,100	93,800
Archuleta		80%	994	1,065	1,278	1,477	1,648	39,760	45,440	51,120	56,800	61,360	65,920	70,480	75,040
Archuleta		70%	869	931	1,118	1,292	1,442	34,790	39,760	44,730	49,700	53,690	57,680	61,670	65,660
Archuleta		60%	745	798	958	1,107	1,236	29,820	34,080	38,340	42,600	46,020	49,440	52,860	56,280
Archuleta		55%	683	732	878	1,015	1,133	27,335	31,240	35,145	39,050	42,185	45,320	48,455	51,590
Archuleta		50%	621	665	798	923	1,030	24,850	28,400	31,950	35,500	38,350	41,200	44,050	46,900
Archuleta		45%	559	599	718	830	927	22,365	25,560	28,755	31,950	34,515	37,080	39,645	42,210
Archuleta		40%	497	532	639	738	824	19,880	22,720	25,560	28,400	30,680	32,960	35,240	37,520
Archuleta		30%	372	399	479	553	618	14,910	17,040	19,170	21,300	23,010	24,720	26,430	28,140
Archuleta		20%	248	266	319	369	412	9,940	11,360	12,780	14,200	15,340	16,480	17,620	18,760
Baca		120%	1,491	1,597	1,917	2,215	2,472	59,640	68,160	76,680	85,200	92,040	98,880	105,720	112,560
Baca		100%	1,242	1,331	1,597	1,846	2,060	49,700	56,800	63,900	71,000	76,700	82,400	88,100	93,800
Baca		80%	994	1,065	1,278	1,477	1,648	39,760	45,440	51,120	56,800	61,360	65,920	70,480	75,040
Baca		70%	869	931	1,118	1,242	1,342	34,790	39,760	44,730	49,700	53,690	57,680	61,670	65,660
Baca		60%	745	798	958	1,107	1,236	29,820	34,080	38,340	42,600	46,020	49,440	52,860	56,280
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Baca		20%	248	266	319	369	412	9,940	11,360	12,780	14,200	15,340	16,480	17,620	18,760

5.1. - TABLES OF DIMENSIONAL STANDARDS

All primary and accessory structures are subject to the dimensional standards set forth in the tables in this Section. These general standards may be further limited or modified by other applicable sections of this Land Use Code. General rules for measurement and exceptions are in Section 5.2.

5.1.1. RESIDENTIAL DISTRICTS

TABLE 5.1-1: DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS						
[Bracketed numbers refer to notes at the bottom of the table.]						
District		R-A	R-T	R-6	R-12	R-22
Density	Maximum without clustering (DU/gross acre)	0.2 [1]	0.5 [1]	6.0	12.0	22.0
	Maximum with clustering (DU/gross acre)	1.0	2.0			
	Minimum	-	-	-	-	-0-
Lot Size, minimum (sq. ft.)		20,000	10,000	7,500	Townhouse: 3,000; All other: 3,630 [3]	Townhouse: 1,875; All other: 1,875 [3]
Setbacks, minimum	Front (ft)	25	25	25	15	15
	Side (ft) [2]	10	5	5	5	5
	Rear (ft)	10	10	10	10	10
Dwelling Unit Size, minimum (sq. ft.)		400	400	400	400	400
Building Height, maximum (ft)		28	28	28	24 single-family detached	35
					35 any other structure	
Landscaping (%)		-	-	15	15	15
<p>[1] Density will vary depending on how much land is set aside for conservation purposes. See Section 7.6, Conservation Subdivisions.</p> <p>[2] Corner lots shall have a minimum 10-foot side setback on the street sides.</p> <p>[3] Minimum lot width shall be 25 feet wide.</p>						

5.1.2. MIXED-USE DISTRICTS

TABLE 5.1-2: DIMENSIONAL STANDARDS - MIXED-USE DISTRICTS

[Bracketed numbers refer to notes at the bottom of the table.]

District		MU-R	MU-C	MU-TC
Density/ Intensity	Residential, maximum (DU/gross acre)	16.0	16.0	16.0
Setbacks, minimum	Front (ft)	20	40 from highway 20 from secondary roads At least fifty (50) percent of the primary street frontage must be occupied by a building wall. Also see site layout standards in Section 6.7.4.	ODB overlay: 0-foot build-to line; ODE overlay: flexible build-to zone. See Section 6.7.5.C.6. All other areas: 10
	Side (ft) [1]	5	5	5
	Rear (ft)	10	5	5
Dwelling Unit Size, minimum (sq. ft.)		400	400	400
Building Height, maximum (ft)		24 - single family detached	35	ODB: 40 (may be allowed up to 4 stories by Town Council) OHSB: 45 All other areas: 40
		35 - any other building (remaining properties)		
Landscaping (%)		15	15	15

NOTES:

[1] Corner lots shall have a minimum 10-foot side setback on the street sides.

5.1.3. NON-RESIDENTIAL AND OTHER DISTRICTS

TABLE 5.1-3: DIMENSIONAL STANDARDS - NON-RESIDENTIAL AND OTHER DISTRICTS

[Bracketed numbers refer to notes at the bottom of the table.]

District		C	LI	OS	PS
Setbacks, minimum	Front (ft)	40 from highway 20 from secondary roads	30 (50 on arterial)	30	20

	Side (ft) [1]	5	20 (50 if abutting residential)	20	5
	Rear (ft)	5	10	20	5
Building Height, maximum (feet)		35	35	25	45
NOTE: [1] Corner lots shall have a minimum 10-foot side setback on the street sides.					

(Ord. No. 853, § 1e., 2-23-2017)

5.2. - MEASUREMENTS AND EXCEPTIONS

5.2.1. DENSITY

- A. **Acre, gross.** Means a measure of land area (forty-three thousand five hundred sixty (43,560) square feet).
- B. **Density.** Means the number of dwelling units allowed for each gross acre of land, and is determined by dividing the number of dwelling units on a site by the gross acreage of the site, including dedicated rights-of-way, private streets, and open space set asides. In the determination of the number of residential units to be allowed on a specific parcel of land, a fractional unit equal to or greater than one-half ($\frac{1}{2}$) of a unit shall be rounded up to equal a full unit.
- C. **Dwelling units allowed.** The number of dwelling units allowed on a site is based on the presumption that all other applicable standards of this Land Use Code shall be met. The maximum density established for a zoning district is not a guarantee that such densities may be obtained, nor a valid justification for varying or modifying other dimensional or development standards.

5.2.2. LOT SIZE

- A. **Minimum lot dimensions.** Any lot that is created, developed, used, or occupied shall meet the minimum lot size and frontage requirements in Tables 5.1-1, 5.1-2, and 5.1-3 for the zoning district in which it is located, except as otherwise established in this Land Use Code for particular uses. New lots shall also meet the development standards set forth in Section 7.3.3, Blocks and Lots.
- B. **Number of principal buildings or uses per lot.**
 1. Only one (1) main building for single-family or duplex use, with permitted accessory buildings, may be located upon a lot or unplatted tract. Every dwelling shall face or front upon and have legal means of access to a street or officially approved place.
 2. Where a lot or tract of land is used for multiple-family, mixed use, commercial, or industrial purposes, more than one (1) main building may be located upon the lot but only when such buildings conform to all requirements of this Land Use Code applicable to the uses and district, and when all main buildings face upon a street or otherwise approved place.

5.2.3. SETBACKS

A. Required setbacks.

1. A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in Section 5.1 for the zoning district in which it is

located, except as otherwise established in this Land Use Code or unless a variance or minor modification has been granted. Setbacks shall be measured from the property lines.

2. Setbacks shall be unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above grade upward; provided, however, that fences, non-structural walls, trellises, poles, posts, ornaments, furniture, and other customary yard accessories may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility.
 3. When non-residential and residential lots abut one another, the non-residential use must meet the same setback requirements as the residential lot abutting it.
 4. As used in this Section, the term "building" includes any structure that by nature of its size, scale, bulk, dimension, or use constitutes a visual obstruction or generates activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences running along lot boundaries adjacent to public rights-of-way that exceed six (6) feet in height and are substantially opaque.
- B. **Projections into required setbacks, general.** The following structures may project into required front, side, or rear setbacks as specified in this subsection:
1. **Paved terraces.** Paved terraces may project into any required setback, provided that no structures placed there shall violate other requirements of this Land Use Code and are at least five (5) feet from the lot line.
 2. **Unroofed landings, decks, stairs and balconies.** Unroofed landing, decks, and stairs may project into required setbacks, provided that no portion other than a handrail shall extend higher than thirty (30) inches above the finished grade level. Unroofed balconies may project into a required side or rear yard provided these projections are at least five (5) feet from the property line.
 3. **Incidental architectural features.** Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two (2) feet into any required yard provided these projections are at least seven and one-half (7.5) feet from the lot line.
 4. **Roofs over porches and other exterior approaches.** Roofs over porches, stairways, landings, terraces, or other exterior approaches to pedestrian doorways may encroach up to five (5) feet into a front setback. The covered porch or entrance area encroaching into the setback shall remain exterior to the building and enclosed by no more than a railing.
 5. **Projections into easements and rights-of-ways prohibited.** Projections shall not extend or encroach into any public or private easement(s) or right(s)-of-way.
 6. **Handicap ramps.** Handicap access ramps may be located within required front, side, and rear setbacks.
- C. **Contextual front setbacks.** The following exceptions to the front setback requirements for dwellings abutting local streets, not collector or arterial streets, are authorized for a lot in any district.
1. If there are dwellings on both abutting lots with front setbacks of less than the required depth for the district, the front setback of the lot need not exceed the average front setback of the abutting dwellings.
 2. If there is a dwelling on one (1) abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one-half ($\frac{1}{2}$) way between the depth of the abutting lot and the required front setback depth.

- D. **Double-frontage lots.** In the case of double-frontage lots, front setbacks shall be provided on all frontages.
- E. **Corner sight distance.** On any corner lot on which a front and side yard are required, no wall, fence, structure, sign, or any plant growth that obstructs sight lines at elevations between two and one-half (2.5) feet and six (6) feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five (25) feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection.

5.2.4. BUILDING HEIGHT

- A. **Height requirements generally.** No building shall be erected or altered that will exceed the height limit for the respective zoning district, unless otherwise provided in subsection B. below or elsewhere in this Land Use Code.
- B. **Height exceptions for appurtenances.** Except as specifically provided elsewhere in this Land Use Code, the height limitations contained in this Land Use Code do not apply to cupolas, flagpoles, chimneys, antennas, heating and ventilation equipment, stairwell towers or similar appurtenances; provided, however, the following:
 - 1. The appurtenance does not interfere with Federal Aviation Regulations;
 - 2. The appurtenance does not extend more than five (5) feet above the maximum permitted building height, except for flagpoles, church belfries, and antennas that must be of greater height in order to function;
 - 3. The appurtenance is not constructed for the purpose of providing additional floor area in the building;
 - 4. The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in 6.10.4(D), Screening; and
 - 5. The appurtenance is functional.

5.2.5. LANDSCAPING

Landscaping required by this Article shall be provided pursuant to Section 6.10, Landscaping and Buffers.