

## CHAPTER 11. INCENTIVES

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## CHAPTER 11. INCENTIVES

### § 11.1 PURPOSE

The purpose of this Chapter is to provide incentives for specific types of land uses and/or creative site plans that exceed the minimum requirements of this Code and accomplish high-priority planning goals, including the preservation of open space and natural features and development of attainable housing.

### § 11.2 GENERAL PROVISIONS

- A. **Combination with Other Bonuses.** Unless otherwise expressly stated, the density bonuses of this Chapter may be combined, provided that the total cumulative density bonus shall not exceed the maximum density allowed by the underlying zoning district by more than fifty percent (50%).
- B. **No Guarantee of Density.** The provisions of this Chapter shall not be interpreted as guarantees of achievable density. Developments using bonus provisions shall be subject to all other applicable regulations of this Code. These other regulations or site-specific conditions may prevent maximum bonus density levels from being achieved due to the character of the land or surrounding uses.
- C. **Review and Approval Procedure.**
  - 1. Projects requesting bonuses under this Chapter for land that has not been platted, or for land that is being re-platted, shall be reviewed during the subdivision process, as set forth in Chapter 3 of this Code.
  - 2. Projects requesting bonuses under this Chapter that have already completed the subdivision process shall be required to submit a Development Plan, and shall be reviewed under the Development Plan process as set forth in Chapter 3.
  - 3. A separate rezoning process shall not be necessary to approve the density increases granted through these processes.

### § 11.3 OPEN SPACE DEVELOPMENTS

- A. **Purpose.** To provide an optional method for residential site planning that permits clustering of individual lots in order to:
  - 1. Preserve open space in amounts that are greater than that achievable with more conventional subdivision design and thereby help to preserve the Estes Valley's natural character and scenic vistas;
  - 2. Protect environmentally sensitive areas such as steep slopes and ridgelines, unique rock formations and outcroppings, river systems, wetlands and wildlife habitat and migration corridors; and
  - 3. Promote a more flexible and economical residential layout and street design to provide a more efficient and aesthetic use of open space and to reduce infrastructure costs.
- B. **Eligibility.** Residential open space developments are permitted in the RE-1, RE and E-1 zoning districts.
- C. **Maximum Permitted Density Bonus.** At the Decision-Making Body's sole discretion, and subject to the standards and review criteria set forth in this Section, open space

developments may be eligible for a density bonus up to one and two-tenths (1.2) times (20%) of the base density standard set forth in Table 4-2, §4.3.C.

D. **Uses Permitted.** Open space developments shall contain only single-family detached residential uses permitted in the underlying district.

E. **Development and Design Standards.**

1. Minimum Parcel Size. ten (10) acres.

2. Lot Size.

a. General Rule. Subject to the exceptions listed below, the minimum lot sizes for single-family detached lots within approved open space developments shall be as follows:

Zoning District	Minimum Lot Size/Area for Single-Family Detached Lots
RE-1	2.5 acres
RE	1.0 acres
E-1	0.5 acres

b. Exception for Lots with Private Water/Sewer. The minimum lot size for open space development lots serviced by private wells or private septic systems shall be two (2) acres in the RE and E-1 districts.

c. Exception for Open Space Development on Steep Slopes. Cluster lots with an average slope of greater than twelve percent (12%) shall be subject to the lot area adjustment set forth in §7.1.A of this Code. The minimum lot areas set forth in this subsection shall be used as the base for any required increase in lot area due to steep slopes.

3. *Maximum Lots per Cluster.* Each cluster of residential lots shall contain ten (10) lots or fewer and shall be separated from any other cluster on the property by a protected open area or vegetative buffer.

4. *Open Areas.*

a. Minimum Amounts Required. Open space developments shall provide the following minimum amount of private and/or public open areas:

Zoning District	Minimum Open Areas (% of Gross Land Area)
RE-1	70%
RE	50%
E-1	40%

(Ord. 11-02 §1)

b. Permanently Protected from Development. Prior to construction, such open areas shall be permanently preserved as open areas by the recording of a conservation easement or deed restriction. All open areas in an open space development not

dedicated to a public entity shall be conveyed to a homeowner's association or other organization approved by the applicable Decision-Making Body with responsibility for maintenance of the open areas and the ability to collect assessments or dues for such purpose.

- c. Contiguity. Open areas shall be designed to achieve the maximum contiguous amount of open area possible and to avoid the creation of small, isolated and unusable areas. Such lands shall not be fragmented into small, unconnected areas by development.
- d. Connectivity. To the maximum extent feasible, open areas shall be located contiguous to and be connected with other open areas on the site or with open areas that are adjacent to the open space development boundaries. Where applicable, physical connections for wildlife movement shall be provided within the protected open areas.
- e. Compliance with Other Standards. All open areas, whether private or dedicated for public use, shall comply with all other open area standards set forth in §7.4, "Public Trails and Private Open Areas," of this Code.

5. *Setbacks and Buffers*.

- a. Building Setbacks. Except as specified in subsection 5.b below, building and structure setbacks and yard requirements for individual cluster lots shall be determined on a case-by-case basis by the applicable Decision-Making Body during the development review procedures. All setback and yard determinations shall take as their starting point the minimum setback and yard requirements set forth in §4.3.C.2 of this Code for the underlying base zoning district, and shall consider factors such as minimization of land disturbance and avoidance of potential impacts on sensitive environmental areas, hazard areas, scenic views and adjacent residential land uses. A setback of ten (10) feet from property lines adjacent to open areas is required.
- b. Building Setbacks and Resource Protection. All development within an open space development shall comply with the setback (no disturbance) requirements set forth in Chapter 7 to protect and preserve wetlands, stream and river corridors, ridgelines, wildlife habitat and hazard areas. See §§7.1.D, 7.6, 7.7 and 7.8 of this Code.
- c. Perimeter Buffer Required. A minimum thirty-foot-wide buffer shall be established along the perimeter of the open space development property. Such buffer shall be kept free of buildings, structures and parking areas, and shall be landscaped, screened or protected by natural features in order to minimize potential adverse impacts on surrounding land uses and properties.

E. **Review Criteria for Approval of Open Space Developments**. All open space developments shall comply with all other applicable provisions, as set forth in this Code, and the following review criteria:

- 1. *Site Design*. The open space development, compared with a more conventional site development plan, better attains the policies and objectives of this Code and the Comprehensive Plan, such as providing more open areas, preserving existing trees and vegetation coverage, protecting wildlife habitats and preserving sensitive environmental areas such as river/stream corridors, hazard areas, wetlands and steep slopes; and

2. *Impacts on Surrounding Properties.* The open space development will have no significant adverse impact on adjacent properties or development, or the Applicant has agreed to adopt appropriate mitigation measures such as landscaping, screening, illumination controls and other use restrictions or design features as recommended by Staff or the EVPC to buffer and protect adjacent properties from the proposed clustered development.

(Ord. 11-02 §1, 8/13/02)

#### § 11.4 ATTAINABLE HOUSING DENSITY BONUS

- A. **Purpose.** This Section is intended to create an incentive to provide a variety of attainable housing for persons living and/or working in the Estes Valley. (Ord. 2-02 #9)
- B. **Eligibility.** All residential subdivisions and developments in residential zoning districts are eligible for the attainable housing density bonus set forth in this Section. (Ord. 2-02 #9)
- C. **“Attainable” Defined.** For purposes of this Code and Chapter, “attainable housing units” shall mean the following:
  1. *Renter-Occupied Attainable Housing Units.*
    - a. Housing units that are attainable to households earning sixty percent (60%) of the Larimer County Area Median Income or below, adjusted for household size.
    - b. To qualify as attainable units, housing costs (i.e., rent and utility expenses) must not exceed thirty percent (30%) of the maximum income for an imputed household size based on sixty percent (60%) of the Larimer County Area Median Income. The imputed household size is equal to one and one-half (1.5) times the number of bedrooms in the unit, For example, rent on a two-bedroom unit would be equal to thirty percent (30%) of the monthly income limit of a three-person family; for a three-bedroom unit the rent should not exceed thirty percent (30%) of the monthly income of a four-and-one-half-person family - the midpoint of the range of a four- and five- person family.

If the property owner does not pay all utility expenses, then a utility allowance, computed by the Estes Park Housing Authority, must be subtracted from the housing cost to determine the maximum rent. (Ord 2-02 #9)
  2. *Owner-Occupied Attainable Housing Units.*
    - a. Housing units that are attainable to households earning eighty percent (80%) of the Larimer County Area Median Income or below, adjusted for household size.
    - b. To qualify as attainable units, housing costs must not exceed forty percent (40%) of the eighty-percent Larimer County Area Median Income, adjusted for household size. (Ord. 2-02 #9)
  3. *Larimer County Area Median Income, Defined.* The Larimer County Area Median Income is the current applicable area median income for Larimer County published by the U.S. Department of Housing and Urban Development. (Ord. 2-02 #9)
- D. **Maximum Permitted Density Bonus.** Except in the R-1 Zoning District, subject to the standards and review criteria set forth in this Section and Chapter, attainable housing units are eligible for a density bonus of up to one and one-half (1.5) times (one hundred fifty percent [150%]) of the base net density standard set forth in Table 4-2, §4.3.C. For example, on a RM Multi-Family Residential zoned lot with a net land area of one (1) acre, the underlying base zoning district density is eight (8) units per acre. A maximum density of

twelve (12) dwelling units per acre may be achieved if at least four (4) of the dwelling units are attainable. (Ord. 8-05 #1)

#### **E. Development and Design Standards.**

1. *Minimum Lot Size/Area.* Notwithstanding the minimum lot area requirements set forth in the underlying base zoning district, the following requirements shall apply to residential subdivisions and developments that include attainable housing units pursuant to this Section:
  - a. Single-Family Detached Attainable Units. The minimum lot size for single-family, detached attainable housing units included in a subdivision or development shall be five thousand (5,000) square feet, provided that at least fifty percent (50%) of the total housing units in the subdivision or development are attainable. If less than fifty percent (50%) of the total units are attainable, then the minimum lot size shall be no less than seventy-five percent (75%) of the underlying base zoning district lot area requirement.
  - b. Two-Family Attainable Units. The minimum lot size for two-family attainable housing units included in a subdivision or development shall be twelve thousand (12,000) square feet, provided that at least fifty percent (50%) of the total housing units in the subdivision or development are attainable. If less than fifty percent (50%) of the total units are attainable, then the minimum lot size shall be no less than seventy-five percent (75%) of the underlying base zoning district lot area requirement for two-family residential uses.
  - c. Multi-Family Developments Containing Attainable Units. The minimum lot size for a multi-family structure or development containing at least fifty percent (50%) attainable housing units shall be twenty-five thousand (25,000) square feet. If less than fifty percent (50%) of the total units are attainable, then the minimum lot size shall be no less than seventy-five percent (75%) of the underlying base zoning district lot area requirement for multi-family residential uses.
2. *Dispersal Required.* Attainable housing units shall be dispersed within a residential subdivision or development.
3. *Public Sewers and Water Required.* All developments containing attainable housing units shall be served by public central sewer service and public water service.
4. *Short-Term Rentals Prohibited.* Attainable housing units shall not be leased or rented for tenancies of less than thirty (30) days.
5. *Deed Restriction Required.* Attainable housing units developed pursuant to this Section shall be deed-restricted to assure the availability of the unit for sale or rent to persons meeting the income guidelines and definition set forth in §11.4.C above, for a period of time no less than twenty (20) years. The mechanism used to restrict the unit shall be approved by the Town or County Attorney.

(Ord. 13-99 §D.4, 11/3/99; Ord. 2-02 #9, 2/12/02; Ord. 8-05 #1, 6/14/05)

#### **§ 11.5 HEIGHT EXCEPTION FOR RESIDENTIAL DEVELOPMENTS IN THE CD ZONING DISTRICT**

[Reserved for Future Use]

## § 11.6 RURAL LAND USE PROCESS

Rural subdivisions involving at least seventy (70) acres, located in unincorporated Larimer County and subject to this Code, may opt to use the County's voluntary Rural Land Use Process, §5.8 of the Larimer County Land Use Code, in order to increase the number of permitted buildable lots. Rural subdivisions that opt to apply the County's Rural Land Use Process shall be subject to all standards and procedural requirements set forth in §5.8 of the Larimer County Land Use Code, except that the Rural Land Use Center Director shall refer the preliminary land plan to Staff for comment as provided in §5.8 of the Larimer County Land Use Code.

## § 11.7 TRANSFER OF DEVELOPMENT UNITS

[Reserved for Future Use]

## § 11.8 FLOOR AREA RATIO LIMITS AND EXEMPTIONS (Ord. 8-05 #1)

- A. **Purpose.** The purpose of the Floor Area Ratio (FAR) exemption is to encourage good design and efficient land use and to minimize the visible off-site impact of building bulk. (Ord. 8-05 #1)
- B. **Calculation of Exempted Floor Area.** That portion of habitable building floor area that is placed below existing or original grade and that remains below finish grade qualifies for an exemption from basic FAR limits, upon written request. The exemption shall be based on the following formula: (Ord. 8-05 #1)

Volume (c.f.) of habitable space placed below grade divided by the total volume (c.f.) of the building multiplied by the total floor area of the building equals the square footage of exempt floor area. (Ord. 8-05 #1)

For Example: A building with a total floor area of 2,000 square feet, a total building volume of 30,000 cubic feet and a volume below grade of 10,000 cubic feet will qualify for an exemption of 667 square feet. (Ord. 8-05 #1)

$(10,000 \text{ c.f.}/30,000 \text{ c.f.}) \times 2,000 \text{ s.f.} = 667 \text{ s.f.}$  of floor area exemption. (Ord. 8-05 #1)

Note: The total volume of the building shall be calculated by computing the total interior volume contained within the exterior walls and roofs of the structure. (Ord. 8-05 #1)

(Ord. 8-05 #1, 6/14/05)