

Garfield County

5.09 AFFORDABLE HOUSING REGULATIONS

5.09.01 Findings of the Supplementary Regulations

It is essential and necessary for the preservation and for the maintenance of the health, welfare, safety, and quality of life in Garfield County to ensure the provision of affordable housing, which mitigates the impact of new development. Recognizing that new development generates additional employment needs, and being consistent with a desire to have new development mitigate impacts attributable to such development, the County finds it necessary to require new development to provide affordable housing. Housing must be affordable to the local labor force in order for the local economy to remain stable and to grow in a healthy manner.

5.09.02 Purpose (2001-44)

The purpose of this Section is to implement through regulation the Housing Goals, Objectives, Policies, and Programs of the Garfield County Comprehensive Plan for Study Area One including the following statement: "To provide all types of housing that ensures current and future residents equitable housing opportunities which are designed to provide safe, efficient residential structures that are compatible with and that protect the natural environment".

The Garfield County land use review process will consider the housing needs of all economic segments of the community, and will assure that the impacts of new development will be mitigated, to the extent feasible, to assure an adequate affordable housing supply in the County. While the County recognizes that affordable housing is most desirable in or adjacent to towns, new developments throughout the unincorporated county are creating demands for workers in construction, maintenance, services, and retail sales.

5.09.03 General

This Section applies to all re-zone applications for an increase in residential zoning density in the Garfield County Comprehensive Plan's Study Area I.

5.09.04 Definitions

For the purpose of this section of the Zoning Resolution, affordable housing is defined as resident-occupied housing units, the sale or rental of which units have been limited to specific

segments of the market with permanent affordability insured through appreciation rates controlled by deed restriction or another legally-binding mechanism approved by the Board of County Commissions.

For the purpose of this section of the Zoning Resolution, unit is defined as a building used for residential occupancy which meets current County Building Code, not classified as a mobile home, and which contains one (1) complete kitchen, at least one (1) complete bathroom, at least one (1) living area, and from one (1) to six (6) bedrooms which is to be occupied by a single family living independently of any other family.

(1) Eligibility - Affordable housing units will be made available to full-time residents and/or employees in Garfield County who have a cumulative net worth, minus qualified retirement assets, not in excess of \$100,000.00 and who satisfy the income criteria set forth in the Garfield County Affordable Housing Guidelines. A full time resident is one who will live at least ten months a year in the affordable unit. A full time employee is one who works or will work at least 32 hours per week for a Garfield County based employment source. A person who has been recruited to work for a Garfield County based employment source must produce evidence of an offer of future employment.

Priority will be given to Garfield County employees.

(2) Resale - Resale of affordable housing units will not exceed the purchase price plus, the value of capital improvements authorized by the Housing Authority, and the annual percentage increase in the annual Denver/ Boulder Urban Wage Earners CPI or 3%, whichever is less. Affordable housing units will have a deed restriction carried with the title, which will regulate future sales based on residency/employment requirements, asset limitations, and appreciation rates.

(3) Management - Ongoing management of the deed restrictions will be administered by the Garfield County Housing Authority, or by appointment of another approved housing agency, if the Authority is no longer able to provide such services, according to an agreement brought forward by the applicant and approved by the County Commission.

That agreement will also stipulate the means of determining the allocation of units, any proposed fees to fund the management agreement, and any other necessary terms. The agreement will be adopted as part of the preliminary plan.

The County will maintain a list of approved housing agencies in the Planning Director's office.

5.09.05 Requirements

In order to fulfill the goals of the Comprehensive Plan while directing growth into the areas designated in that plan, requirements will be based on Proposed Land Use Districts from the Comprehensive Plan.

5.09.05.01 For Lands Designated High Density Residential:

(1) Re-zones - All re-zone proposals for an increase in residential zoning density must provide that at least 10% of the units build able under the original maximum density to the total number of approved units must be affordable housing units.

(2) Off-site - Given that these lands have been planned for two or less acres per dwelling unit, these are the locations most suited for affordable housing units. Off-site proposals will only be approved by the County Commissioners if the applicant can demonstrate circumstances that would justify an off-site option. In any event, the applicant must show that the affordable housing units meet the requirements of these regulations and the Garfield County Affordable Housing Guidelines, and that these housing units will actually be built in Study Area I. No cash-in-lieu payment will be accepted.

5.09.05.02 For Lands With Any Land Use Designation Other Than High Density Residential:

(1) Re-zones - All re-zone proposals for an increase in residential zoning density must provide that at least 10% of the units build able under the original maximum density be affordable housing units; and that at least 20% of the units build able as a result of the increase in density from the original maximum density to the total number of approved units must be affordable housing units.

(2) Off-site - Given that these lands have been planned for low density, these are not always the best locations for affordable housing units. At the applicant's request, Garfield County will

consider off-site affordable housing units. The applicant must show that the affordable housing units meet the requirements of these regulations and the Garfield County Affordable Housing Guidelines, and that these housing units will actually be built in study Area I. No cash in lieu payment will be accepted.

(3) Standards - In accordance with the above stated policy, if the applicant proposed to utilize off-site affordable housing, all proposals for the location of off-site affordable housing units shall, at the time of Preliminary Plan, be required to demonstrate to the satisfaction of Garfield County that:

(a) the proposed off-site affordable housing units are located at a site which is within the boundaries of an incorporated town or municipality which is:

(i) serviced by publicly owned and publicly maintained water, sewer, and utility infrastructure; and

(ii) situated in close proximity, or offer the opportunity for public transit to, the commercial, retail, or business centers of said town or municipality.

(b) if the applicant proposes to utilize off-site affordable housing and demonstrates that such housing cannot be located within a municipality or town, then the following shall apply:

(i) be located within a zone district allowing greater densities and a greater variety of housing types, which densities and housing types shall be consistent with the location, the construction, and the maintenance of affordable housing units, when compared to the land which is the subject of the requested Re-zoning or PUD; and

(ii) be on the whole located substantially closer in proximity to the following categories of facilities and amenities, when compared to the project parcel: public schools; commercial or retail centers; community or public recreational parks and activities; hospital and health care facilities; professional services; and public services, including fire, police, and emergency services;

(iii) be serviced by centralized domestic water and sewer systems at a cost which Garfield County shall determine is consistent with the definition of affordability herein; and

(iv) not be subject to any special assessments or charges for the upkeep of community facilities or amenities which Garfield County determines is inconsistent with the definition of affordability herein.

(c) the applicant proposing off-site affordable housing units must submit, with the Preliminary Plan application to subdivide, evidence that the developer has:

- (i) completed all preliminary site design and planning;
- (ii) submitted for preliminary plan review the development design proposal; and
- (iii) provided all forms of deed restrictions on both the lots and their units.

(d) At the time of Preliminary Plan, and consistent with the provisions set forth in Sections 4.07.15.03 and 5.09.05.03, all proposals for the location and the construction of off-site affordable housing units shall contain a method or a procedure acceptable to the County to ensure that the proposed off-site affordable housing units are available for sale pro rata with the sale of the lots contained within the project parcel. Said proportion of affordable housing units to the project parcel units shall be determined in accordance with the formulas set forth in Section 4.07.15.01 and 5.09.05.01.

5.09.05.03 Computation of Required Affordable Housing Units and Mix of Housing Units:

(1) Determination of Number of Units - To comply with the requirement to provide the above percentages of affordable housing units, the applicant shall multiply the number of affordable housing units required by 2.6 (the average number of persons in a household) and divide the result by 1.5 (the U. S. Department of Housing and Urban Development criteria of number of persons per bedroom). The figure derived from this formula shall be the minimum number of bedrooms, which the applicant must build in affordable housing units. The mix of affordable housing types will be decided by the applicant.

Any proposal for an affordable housing unit with more than 3 bedrooms may be approved, but only after a special review to determine a need.

(2) Determination of the Mix of Units - The mix of affordable housing units for purchase shall average a price affordable to households at 80% of the Area Median Income (AMI), as determined by the U.S. Department of Housing and Urban Development (HUD) and published annually. The affordable price will be calculated based on principal, interest, taxes, insurance, and homeowner association dues not to exceed 33% of gross household income. The calculation will assume a 95% loan-to-value, 30-year mortgage at prevailing interest rates. The average may be achieved by providing housing units affordable to households between 81% and 120% of the AMI in combination with units affordable to households between 60% and 80% percent of the AMI.

Any fractional affordable housing units created by the above formulas will be rounded up to the next highest number. The applicant, at the time of submittal, must present for review the proposed location of the affordable housing units, the proposed mix to satisfy the above formulas, all documents necessary to comply with this regulation, the Garfield County Affordable Housing Guidelines, and a proposed schedule of when the affordable housing units will be constructed and completed in relation to the entire project.

It is the intent of these regulations that affordable housing units for sale are built and available for sale at the same time that the other houses are available for sale. The county may require of the applicant security in a reasonable amount to insure that the affordable housing units are constructed or some other requirement such as issuing building permits for ten free market houses only after the issuance of a building permit for one affordable housing unit. The applicant must satisfactorily demonstrate that she/he understands and will comply with these regulations and the Garfield County Affordable Housing Guidelines.

5.10 GARFIELD COUNTY AFFORDABLE HOUSING GUIDELINES

5.10.01 Purchasing, or Selling Affordable Housing Units - Qualifications to Rent or to Purchase Affordable Housing Units

(1) Qualification Criteria

To qualify for and be eligible to rent or purchase an affordable housing unit, a person must meet the following criteria:

(a) employed full time or reside full time in Garfield County, or have an offer of future employment from a Garfield County based employer; a person is employed full time if the person works or will work at least 32 hours per week for a Garfield County based employment source; a full time resident is a person who lives in Garfield County ten months or more out of each year and will occupy the affordable house ten months or more out of each year; priority will be given to employees or future employees of a Garfield County based employer, which is an employer or business having a business office, store or facility located in Garfield County at which the employee reports to work or from which the employee is compensated, whether or not the work is performed in Garfield County.

(b) occupy the unit as a primary residence upon purchase or rental of the unit; and

(c) have a current household net worth, minus qualified retirement assets, not in excess of \$100,000.00; if a person owns real estate, the value of the real estate will be based on the current market value minus the loan amount balance; only those persons earning 80% or less of the Area Median Income [AMI], as determined by the U.S. Department of Housing and Urban development and published annually, may qualify to purchase a house which has been priced based on 60% to 80% of AMI; those persons earning between greater than 80% and 120% of AMI may only qualify to purchase those affordable housing units which have been priced based on greater than 80% to 120% of AMI; those persons earning between greater than 120% and up to 165% of AMI may only qualify to purchase those affordable housing units which have been priced based on greater than 120% to 165% of AMI; income includes but is not limited to salaries, wages, commissions, severance pay, royalties, rents, trust income, annuities, capital gains, pensions, retirement benefits, payments received as an independent contractor for labor or services, bonuses, tips, overtime pay, dividends, gambling proceeds, moneys drawn by a self-employed individual for personal use, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, funds payable from any health, accident, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages, monetary gifts, monetary prizes, taxable distributions from partnerships or corporations and alimony; a person who is not divorced but is separated from the person's spouse may exclude the spouse's income but only if the couple intends to permanently live separate and apart; a divorced parent who has parenting time with his children but with whom the children do not primarily reside may claim a household which includes the children. (2002-39)

(2) Non-Qualification

If the Garfield County Housing Authority determines that an applicant does not meet the criteria for qualification for an affordable housing unit, the Housing Authority will promptly provide the applicant with a written notice of the determination. The notice will contain a brief statement of the reason(s) for the decision, and will state that the applicant may request a review of the decision by following the grievance process described in Section Eleven of these guidelines.

(3) Eligibility and Priorities

Eligibility for affordable housing will be made without regard to race, color, creed, religion, sex, handicap, disability, national origin, familial status, or marital status.

(a) All complete applications will be assigned by the Housing Authority to one of two Priority Categories:

(i) Priority Category One: A prospective owner or renter is an employee of a Garfield County based employer;

Or:

(ii) Priority Category Two: A prospective owner or renter is a resident of Garfield County.

(b) If the application of a prospective owner or renter falls into both of the Priority Categories One and Two, that application shall be considered to be in Priority Category One. If an application does not meet the criteria of either Priority Category, that applicant shall not be eligible for an Affordable Housing Unit.

(c) All completed and verified applications shall be placed in the Lottery for Affordable Housing.

(4) Lottery

The Garfield County Housing Authority will conduct a lottery for each Affordable Housing Unit or group of Units as they become available. No waiting list will be maintained and a new and separate application must be submitted for each newly available Unit or group of Units.

To assure that the Priorities designated herein are used, the Garfield County Housing Authority shall conduct the Lottery for available Affordable Housing Units as follows:

(a) The Lottery shall include all applications which are submitted and complete as of the date designated by the Housing Authority.

(b) All complete applications which fall into Priority Category One shall be included in Lottery Round One. Each application, upon being drawn by random selection, shall be assigned a numerical position based upon the order drawn.

(c) Following the random drawing and assignment of a numerical position for the applications in Priority Category 1 in Lottery Round One, a separate random drawing, Lottery Round Two, shall be conducted in a similar manner for the applications in

Priority Category 2. A numerical position shall be assigned to each application in Lottery Round 2 based upon the order drawn in a random selection.

(d) Available Affordable Housing Units and the first choice of an available Unit will be offered to the qualified applicant first drawn in Lottery Round One. Subsequent offers will be made to other qualified applicants in the order drawn in Lottery Round One.

(e) Remaining Affordable Housing Units, if any, will be offered to applicants in the order drawn in Lottery Round Two following those in Lottery Round One.

(f) The Garfield County Housing Authority shall designate, by appropriate regulation, the length of time an offer of an Affordable Housing Unit shall be available to an applicant before the offer is considered withdrawn or void. If an offer is not accepted by a ready and willing applicant within the designated time, the offer shall be considered withdrawn and an offer to the next sequential qualified applicant, based upon the Lottery, shall be made.

5.10.02 Qualifications to Reside in an Affordable Housing Unit

To remain eligible to reside in an affordable housing unit, a person must meet the following criteria.

(1) To reside in a rental unit, she/he must meet the requirements of Section 4.14.01(1), (2), and (3); and

(2) Units for Purchase

(a) To reside in a purchase unit, she/he must meet the requirements of Section 4.14.01(1) and (2).

(b) All sales of affordable housing units must occur pursuant to these regulations.

5.10.03 How to Qualify for Affordable Housing Unit (Rental or Purchase)

(1) Initial Qualification

In order to determine that a person or a household desiring to purchase an affordable housing unit meets all of the criteria set forth in Section I above, the Garfield County Housing Authority may request any combination, or all, of the documentation listed below as proof of residency, income, assets, and employment (with the provision that all information and documentation is considered confidential).

(a) Federal income tax returns for the last two-(2) years (for prospective purchasers). Prospective purchasers must also furnish a current income statement and a current financial statement, in a form acceptable to the Garfield County Housing Authority,

verified by the applicant to be true and correct, or other documentation acceptable to the Housing Authority. When current income is twenty (20%) percent, more or less, than income reported on tax returns, then the applicant's income will be averaged based upon the current income and the previous year's tax returns to establish an income category for the purpose of purchasing or of renting an affordable housing unit.

(b) Verification of employment or offer of employment in Garfield County (i.e., wage stubs, employer name, address, and phone number), plus evidence of legal residency (or I.N.S. Form 1-9, Employment Eligibility Verification) or other appropriate documentation as requested by the Garfield County Housing Authority.

(c) Landlord verification (proof of residency, physical address).

(d) Copy of valid Colorado Driver's License.

(e) Verification of telephone service (date of installation, person listed to).

(f) Vehicle registration.

(g) Voter registration.

(h) Any other documentation which the Garfield County Housing Authority deems necessary to make a determination.

(i) Divorce or Support Decree. If you receive any sort of alimony or child support, a copy of the decree must indicate that it has been entered of record; and all exhibits and supplements must be attached.

(j) Current credit report.

(2) Additional Qualifications for Purchasers of an Affordable Housing Unit:

The applicant desiring to purchase an affordable housing unit will be required to sign a release so that the Garfield County Housing Authority can obtain a copy of the completed loan application submitted to the lender.

5.10.04 Procedures for Initial Purchase and for Resale of an Affordable Housing Unit

(1) Listing the Affordable Housing Unit with the Garfield County Housing Authority - Staff

Duties:

(a) Initial sales of affordable housing units will be the responsibility of the developer. The purchase price, deed restriction, qualification of buyer, and all other aspects of the sale must comply with the Garfield County Affordable Housing Regulations and with these Guidelines.

(b) After the initial sale of an affordable housing unit, any subsequent owner of an affordable housing unit desiring to sell must consult with the Garfield County Housing Authority and review the Deed Restriction covering the housing unit to determine the maximum sales price permitted and other applicable provisions concerning a sale. Unless otherwise provided in the Deed Restriction, the affordable housing unit must be listed for sale with the Garfield County Housing Authority. The Housing Authority staff will administer the sale in accordance with the Guidelines in effect at the time of the listing. There shall be a minimum listing period of three months before an affordable housing unit's price can be readjusted. Any termination in the listing may require the payment of administrative and of advertising costs.

(c) Prospective purchasers will register in person at the housing authority office.

(d) These Guidelines are intended to assure that all purchasers and all sellers will be treated fairly and impartially. Questions will be answered and help will be provided equally to any potential purchasers or sellers in accordance with the current Guidelines. Listings, sales contracts, extensions to contracts, and closing documents will be prepared; and all actions necessary to consummate the sale shall be undertaken.

(e) In pursuit of the above, the Garfield County Housing Authority staff will be acting on behalf of the Housing Authority. It should be clearly understood by and between all parties to a sales transaction that the staff members are not acting as licensed brokers to the transaction, but as representatives of the Garfield County Housing Authority and its interests. They shall nevertheless attempt to help both parties to consummate a fair and an equitable sale in accordance with the current Guidelines.

(f) All purchasers and sellers are advised to consult legal counsel regarding examination of the title and all of the contracts, agreements, and title documents. The retention of counsel, licensed real estate brokers, or such related services, shall be at a purchaser's or seller's own expense. The fees paid to the Garfield County Housing Authority are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.

(2) Advertising For Resale

(a) After an affordable housing unit is listed for sale with the Garfield County Housing Authority, the Housing Authority will arrange to advertise the unit for sale. Pricing for the resale unit will be consistent with the deed restriction appreciation caps.

(b) Prospective purchasers are encouraged to investigate sources of financing prior to submitting an offer for an affordable housing unit and can obtain names of lenders from the Housing Office.

(3) Sales And Other Fees

(a) Sales Fees

(i) Unless otherwise set forth in the Deed Restrictions covering the affordable housing unit, at the closing of the sale, the seller will pay the Garfield County Housing Authority a sales fee equal to two and one-quarter (2 1/4%) percent of the sales price. The Garfield County Housing Authority may instruct the Title Company to pay the fees to the Housing Authority out of the funds held for the seller at the closing.

Unless otherwise specified in the Deed Restriction, a one-half (1/2%) percent fee is paid by the seller at the time of listing, which is applied to the total sales fee payable at closing. In the event that the seller fails to perform under the listing contract, rejects all offers at the maximum price in cash or in cash-equivalent terms, or should withdraw the listing after advertising has commenced, that portion of the fee will not be refunded. In the event that the seller withdraws for failure of any bids to be received at the maximum price or with acceptable terms, the advertising and the administrative costs incurred by the Garfield County Housing Authority shall be deducted from the fee, with the balance credited to the owner's sales fee when the affordable housing unit is sold.

(b) Other Fees

(i) Unless otherwise set forth in the Deed Restriction covering the unit, upon the initial sale, resale, or refinancing of the affordable housing unit where FNMA-type financing provisions are used (the use of which shall be at the sole discretion of the Garfield County Housing Authority), there shall be a one-quarter (1/4%) percent fee charged by the Housing Authority. The fee shall be paid by the mortgagor, based on the amount of the mortgage, paid for each mortgage transaction, and deposited in the Garfield County Housing Authority mortgage reserve fund account. The purchaser of the affordable housing unit shall also pay the fee based on their mortgage, as set forth above.

(ii) If the fee is paid on an affordable housing unit, and the housing unit is subsequently refinanced, the fee shall only apply to that amount of the refinanced mortgage greater than the initial mortgage upon which the fee was initially collected. FNMA-type financing provisions are those, which provide, among other things, for the removal of the Deed Restriction on the unit upon foreclosure of the mortgage if the Garfield County Housing Authority, the City, or the County does not exercise their option to purchase the affordable housing unit within a specified time following the foreclosure. If FNMA-type financing provisions are not used by the mortgagor, no fee shall be charged by the Garfield County Housing Authority. The amount and the adequacy of the fee and the mortgage reserve fund shall be reviewed annually as part of the review of the Guidelines.

(4) Deed Restriction

The purchaser must execute concurrent with the closing of the sale, in a form satisfactory to the Garfield County Housing Authority and to the Garfield County Clerk for recording, a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction covering the sale of the affordable housing unit.

(5) Additional Information: Co-ownership and co-signing

(a) Any co-ownership interest, other than joint tenancy or tenancy-in-common, must be approved by the Garfield County Housing Authority.

(b) Co-signors may be approved for ownership of the affordable housing unit, but shall not occupy the unit unless qualified by the Garfield County Housing Authority.

(c) Rentals

(i) If an affordable housing unit is listed for sale, and the owner must relocate to another area, the housing unit may, upon approval of the Garfield County Housing Authority, be rented to a qualified individual, in accordance with the Guidelines, for a maximum period of two (2) years. Notice of such intent, and the ability to comment, shall be provided to any applicable homeowner's association at the time of request to the Garfield County Housing Authority. A letter must be sent to the Garfield County Housing Authority requesting permission to rent the affordable housing unit until the unit is sold.

A minimum six (6) months written lease must be provided to the tenant, with a sixty (60) day move out clause, upon notification when the unit is sold. All tenants must be qualified by the Garfield County Housing Authority.

(ii) The affordable housing unit must be leased for the terms set forth in the Deed Restriction on the unit or, if there are no such provisions in the Deed Restriction, upon terms approved by the Garfield County Housing Authority. Prior to the Garfield County Housing Authority's qualification of a tenant, the tenant shall acknowledge, as part of the lease, that the tenant has received, read, and understands the homeowners' association covenants, rules, and regulations for the affordable housing unit and shall abide by them. Enforcement of the covenants, rules, and regulations shall be the responsibility of the homeowners' association. A copy of the executed lease shall be furnished by the owner or tenant to the Garfield County Housing Authority and to the homeowner's association.

5.10.05 Execution of Deed Restrictions by Applicants

Deed Restrictions must be submitted by the applicant to the Garfield County Housing Authority according to the time schedule listed below.

(1) At the Time of Building Permit

Prior to issuance of any building permit for a project, the Garfield County Housing Authority shall have an approved, executed, and recorded Deed Restriction for the required commitment by the applicant. A copy of the recorded Land Use Code Resolution and the Deed Restriction shall be sent to the Garfield County Housing Authority.

(2) At the Time of Certificate of Occupancy

Prior to the issuance of any Certificate of Occupancy, the Deed Restriction shall be amended, if necessary, to reflect the changes approved by the Garfield County Housing Authority, which may have occurred during construction or conversion of the affordable housing unit (i.e., net livable square footage). In addition, the Deed Restriction shall be executed and recorded, with the original returned to the Garfield County Housing Authority for their files.

5.10.06 Priorities for Persons Desiring to Purchase an Affordable Housing Unit

Priorities for persons to purchase an affordable housing unit shall be as listed below.

(1) Person(s) with a present ownership interest (joint or tenants in common) in the affordable housing unit.

(2) Person(s) chosen by the remaining owner(s) to purchase the interest of another owner. Any fractional sales must be approved by Special Review, if not under a court order, due to dissolution procedures.

(3) Spouses or children of current owners including joint custody of the children.

5.10.07 Maximum Vacancy of an Affordable Housing Unit for Rent

Deed restricted affordable rental units, which are required to be occupied, may be vacant between tenancies for a maximum period of forty-five (45) days, unless authorized by the Garfield County Housing Authority. If the owner exceeds the forty-five (45) day limit without the Garfield County Housing Authority's approval, the Housing Authority will place a qualified tenant, with a minimum six (6) months lease, from the existing waiting list.

5.10.08 Leave of Absence for Owners of an Affordable Housing Unit

(1) Rental During a Leave of Absence

If an owner of an affordable housing unit must leave Garfield County for a limited period of time, and desires to rent the unit during their absence, a leave of absence may be granted by the Garfield County Housing Authority for up to one (1) year upon clear and convincing evidence which shows a bona fide reason for leaving and a commitment to return to the Garfield area. A letter must be sent to the Garfield County Housing Authority, at least thirty (30) days prior to leaving, requesting permission to rent the unit during their leave of absence. Notice of such intent, and the ability to comment, shall be provided to any applicable homeowners' association at the time of request to the Garfield County Housing Authority.

(2) Extension of a Leave of Absence

The leave of absence shall be for one (1) year and may, at the discretion of the Garfield County Housing Authority, be extended for one (1) year; but in no event shall the leave exceed two (2) years. The unit may be rented in accordance with the Garfield County Housing Authority's Guidelines for qualification during the one (1) or two (2) year period, so long as the Deed Restriction covering the affordable housing unit permits the rental.

(3) Establishing the Rental Rate

In the event that the rental rate is not set forth in the Deed Restriction, the rent shall be established at the greater of the owner’s cost, or the rent shall be established in accordance with the Affordable Housing Guidelines. The owner’s cost, as used herein, includes the monthly mortgage principal and interest payment, plus condominium fees, plus utilities remaining in the owner’s name, plus taxes and insurance prorated on a monthly basis, plus twenty (\$20) dollars per month.

(4) Covenants, Rules, and Regulations

Prior to the Garfield County Housing Authority’s qualification of the tenant, the tenant shall acknowledge, as part of the lease, that the tenant has received, read, and understands the homeowners’ association covenants, rules, and regulations for the affordable housing unit and shall abide by them. Enforcement of the covenants, rules, and regulations shall be the responsibility of the homeowner’s association. A copy of the executed lease shall be furnished by the owner or the tenant to the Garfield County Housing Authority and the homeowners’ association. Additionally, an owner may request a one-time, in-county leave of absence for one (1) year by Special Review with all of the above conditions applying.

5.10.09 Roommates

Unless otherwise set forth in the Deed Restriction or covenants of the Homeowners’ Association covering the affordable housing unit, an owner may rent an affordable unit/room so long as the owner continues to reside in the housing unit as a sole and exclusive place of residence.

5.10.10 Special Review for 4 to 6 Bedroom Units

(1) The Garfield County Housing Authority will consider a developer’s proposal for units with four, five, or six bedrooms by a Special Review. The Special Review process will evaluate the need for the multiple bedroom units based upon the intended family composition. The Special Review requires that there must be at least one bedroom of appropriate size for every two persons in the family. The following chart shall be applied in the request for a Special Review.

<u>Number of Bedrooms</u>	<u>Minimum Persons</u>	<u>Maximum Persons</u>
0 - studio	1	2
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

(2) The determination of the intended family composition will include the following: foster children, live-in attendants, dependents under the age of 23 who are away attending school, and family members who are away on military leave or out-of-town business assignment.

5.10.11 Grievance Procedures (This Section updated Resol #2004-115)

A grievance is any dispute that a tenant, potential purchaser or purchaser may have with the Garfield County Housing Authority with respect to action or failure to act in accordance with the individual tenant's or purchaser's rights, duties, welfare, or status. A grievance may be presented to the Garfield County Housing Authority Board of Directors (herein after referred to as Board) under the following procedures:

(1) Filing a Grievance

- (a) Any grievance must be presented in writing to the Garfield County Housing Authority. It shall specify the particular ground(s) upon which it is based; the action requested; and the name, address, and telephone number of the complainant, and similar information about his/her representative. The grievance must be received by the Garfield County Housing Authority within ten days of the date of the alleged action complained about.
- (b) Upon presentation of a written grievance, a hearing before the Garfield County Housing Authority Board of Directors shall be scheduled no sooner than four days from the receipt of the grievance and no later than thirty days from the receipt of the grievance. Notice shall be given to the complainant at least two days before the hearing date. Notice may be by first class mail, fax or e-mail. Notice may be accomplished by serving the complainant's attorney.
- (c) The complainant shall have the opportunity before the hearing, and at the complainant's expense to examine and copy all documents and regulations of the Garfield County Housing Authority that are relevant to the hearing.
- (d) The complainant may be represented by council at their own expense.
- (e) If a determination is made of ineligibility, the unit is the subject of a lottery, and the hearing of a grievance can not be scheduled before the lottery takes place, the complainant's name may be placed in the appropriate category of the lottery. If the complainant's name is chosen, then the closing will be postponed until the Garfield

County Housing Authority Board of Directors makes a decision on the eligibility of the complainant.

(f) All persons submitting an application for eligibility to purchase an affordable housing unit will sign an agreement stating that if they are found ineligible and the decision is later overturned either by administrative or court action, their sole remedy will be participation the lottery for the next available unit in the event the unit originally applied for has been sold.

(2) Conduct of the Hearing

(a) If the complainant fails to appear at the hearing, the Board may postpone the hearing or make a determination based solely upon the written documentation in the file.

(b) Evidence may be received without strict compliance with the rules applicable to judicial proceedings. However, the complainant may not present documents at a hearing concerning eligibility which have not been previously submitted and considered by the Garfield County Housing Authority in reaching its decision of ineligibility.

(c) Based on the records of proceedings, the Board will provide a written decision within ten days of the hearing and include therein the reasons for its determination.