

**TOWN OF GYPSUM, COLORADO**

**Ordinance No. \_\_\_\_\_  
(Series 2008)**

**AN ORDINANCE ADDING SECTION 18.05.050,  
RESTRICTED WORKFORCE HOUSING, TO THE  
GYPSUM MUNICIPAL CODE ADDING INCENTIVES  
AND CONCESSIONS FOR DEVELOPERS THAT  
DEVELOP, BUILD AND OFFER FOR SALE  
RESTRICTED WORKFORCE HOUSING IN THE  
TOWN OF GYPSUM.**

WHEREAS, the Town of Gypsum (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town’s Home Rule Charter effective October 21, 1982; and

WHEREAS, the housing element of the 1999 Gypsum Foundation Plan establishes a goal to “promote relatively affordable, primary residence, family-oriented housing so that this type of development remains the mainstay of the community while providing a broad spectrum of housing types and prices in order to encourage social diversity and balance”, with one of the strategies being identified as “f. Promote the development of and strive to maintain affordable housing stock through a variety of strategies including incentives” (1999 Gypsum Foundation Plan at Page 29); and

WHEREAS, the Town Council hereby finds and determines that provision for incentives and concessions to develop, build and sell restricted workforce housing is appropriate and necessary to the function and operation of the Town; and

WHEREAS, the Town of Gypsum intends for units that are constructed or otherwise provided as restricted workforce housing to be deed restricted or, through other methods, regulated to remain affordable over time and made permanently protected community assets; and

WHEREAS, upon adoption, the regulations of this Ordinance shall apply uniformly to development, as specified herein, in the Town of Gypsum, Colorado;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, AS FOLLOWS:

**Section 1 – Amendment of Chapter 18.05 of Title 18.** Title 18 of the Gypsum Municipal Code is hereby amended by the addition of Section 18.05.050, Restricted Workforce Housing, to read in its entirety as follows:

**18.05.050 Restricted Workforce Housing.**

A. Purpose and Intent.

1. General Purpose and Intent. The purpose of this section is to provide an opportunity for the development of a reasonable amount of restricted workforce housing in the Town of Gypsum that meets the needs of those economic groups being priced out of the residential housing market due to rapid increases in property values in Eagle County. This will be accomplished through a program and regulations that permit the set-aside of a portion of new residential development for restricted workforce housing purposes, and also by permitting an increase in residential density when the increased density is enrolled in the general restricted workforce housing program and meets additional requirements related to residential unit size. This section provides incentives and concessions to encourage the development of restricted workforce housing. It is the Town's intent that restricted workforce housing is dispersed throughout the Town in reasonable proximity to major services, such as commercial and retail centers, the Post Office, Town Hall, Recreation Center and the downtown area and not concentrated in just one area of the Town.
2. Starter Housing. To better serve the employees and employers of the Town and Eagle County, the Town has developed the free market plan set forth in this Section to provide entry level housing for qualified first time home buyers or those persons moving from basic minimal housing to the next level of housing. The purpose is to provide starter housing for the workforce and to provide the means to take the first or second step on the road to home ownership, while at the same time recognizing that ultimately, it is the responsibility of the workforce to reach beyond the restricted workforce housing program and find a means to move into the unrestricted housing market.
3. Initial Thresholds. These regulations are intended to establish the thresholds for restricted workforce housing, the expectations for homes sold as restricted workforce housing, the qualifications of those purchasing restricted workforce housing, the manner in which others, including employers, may assist the first time home buyer, and the requirement that homes in the restricted workforce housing program remain in the program through future sales and conveyances. The limit on the initial sales price for restricted workforce housing shall be subject to future adjustment by the Town Council, as new family income data becomes available.

B. Definitions.

As used in this section, unless the context otherwise requires:

1. "Area median income" or "AMI" means the most current local estimates of median family income compiled and released annually by the United States Department of Housing and Urban Development for Eagle County, Colorado.
2. "Developer" means the person or entity that applies to the Town for approval of the development.
3. "Development" means the subdivision, PUD, or phase or portion thereof, or other specified properties to which an application for building permit applies.
4. "Equity partner" means a family member, employer of the qualified employee or other person or entity, including governmental entities and non-profit organizations, who may partner with the qualified employee to facilitate the purchase of an RWH unit. A bank or other financial institution that has a deed of trust or mortgage interest in a RWH unit is not deemed an equity partner.
5. "Gross income" shall have such meaning as applied to the term "gross income" or the equivalent terms as used by the United States Department of Housing and Urban Development relative to estimating or for applying the concept of median family income, or if no such meaning is provided, means total income of an individual occupying a RWH unit derived from all sources, including but not limited to business, trust, employment, and from income-producing property, before deduction for expenses, depreciation, taxes and similar allowances.
6. "Household income" shall have such meaning as applied to the term "household income" or the equivalent term as used by the United States Department of Housing and Urban Development relative to estimating or applying the concept of median family income, or if no such meaning is provided, means combined gross income of all individuals who will occupy the RWH unit regardless of legal status. Adjustments to gross income for business expenses can be made for persons who are self-employed.
7. "PUD" means a planned unit development.
8. "Primary residence" means sole and exclusive place of residence.
9. "Qualified employee" means a person meeting the eligibility requirements of the RWH program to purchase an RWH unit.
10. "Qualified employer or non-profit organization" means a governmental or non-governmental employers with operations

and employees in Eagle County, and non-profit organizations organized for the primary purpose of providing housing for employees within Eagle County.

11. "Qualified lessee" means a person meeting the eligibility requirements of the RWH program to lease an RWH unit that is owned by a qualified employer or non-profit organization.
12. "RWH" means restricted workforce housing.
13. "RWH agreement" means a written agreement between the Town and a developer, setting forth the terms and conditions of enrollment of certain residential dwelling units located within the applicable development into the RWH program.
14. "RWH application" means an application to enroll residential units in the RWH program.
15. "RWH development assistance" means residential density increases, waivers of fees, charges and other development requirements, or other financial incentives, concessions or assistance provided by the Town to a developer in return for enrolling RWH units in the RWH program.
16. "RWH program" means the program established by this section for increasing workforce housing, primarily for sale, and in limited instances for lease, to qualified employees.
17. "RWH program administrator" the person or entity designated to administer the RWH program.
18. "RWH regulations" means regulations for implementing the RWH program.
19. "RWH units" means residential dwelling units enrolled by approval of the Town in the RWH program and designated primarily for sale, and in limited instances for lease, to qualified employees.

C. RWH Program Enrollment and Removal.

1. RWH Application. Application for enrollment of residential dwelling units in the RWH program shall be made by the developer, by filling an RWH application with the RWH program administrator. RWH applications shall include such information necessary to ensure compliance with the intent and requirements of the RWH program and RWH regulations, and administration of the RWH agreement. An RWH application shall be filed in conjunction with, or prior to, application for approval of the final subdivision or PUD plat, or issuance of a building permit for the development, whichever occurs first.

2. RWH Application Determination. Enrollment of residential dwelling units in the RWH program shall be accomplished only by Town Council approval. RWH applications may be approved, denied or approved with conditions, in the sole discretion of the Town Council after review and recommendation of the planning and zoning commission, taking into consideration the housing needs within the Town and Eagle County, and the RWH development assistance requested to be provided by the Town. The Town Council approval shall include terms and conditions designed to ensure compliance with the intent and requirements of the RWH program and RWH regulations.
3. RWH Agreement. As a condition of Town Council approval of any RWH application, the enrollment of any residential units in the RWH program, and the provision of any RWH development assistance by the Town, the applicant and the Town shall enter into the RWH agreement. The RWH agreement shall, whether or not expressly referenced in writing, incorporate the provisions of the RWH program and the RWH regulations. The RWH agreement shall set forth all terms and conditions of approval for enrollment of units in the RWH program, including the initial purchase price for RWH units, and the terms of any RWH development assistance provided by the Town. The RWH Agreement shall be fully executed prior to approval of the final subdivision or PUD plat, or issuance of a building permit for the development, whichever occurs first.
4. Removal of RWH Units from RWH Program. RWH units may not be sold, leased, used or owned except in compliance with the RWH program, RWH regulations and RWH agreement. Residential units may be removed from the RWH program only upon prior written application to and approval by the Town Council. Applications may be approved, denied or approved with conditions, in the sole discretion of the Town Council, taking into consideration the intent of the RWH program, the housing needs within the Town and Eagle County, the needs of the owner at the time of the removal application, the availability of purchasers if the units stayed in the RWH program, the length of time the units were enrolled in the RWH program, and the RWH development assistance provided by the Town. The Town Council approval shall include terms and conditions designed to ensure adequate amortization or repayment of the RWH development assistance; a rebate of not less than 20% of the sale price of the unit for the first sale following the removal of the unit from the program shall be paid to the Town of Gypsum to compensate the Town for RWH development assistance. Such rebate shall be calculated and due at the time of the closing of the first sale of the units following their withdrawal from the RWH program, and collected in the same manner as, and in addition to, the Town real estate transfer tax. Such rebates shall be used to offset, in such manner as may be approved by the Town Council, the

cost and expense of the RWH program, including past or future RWH development assistance.

- D. Development Eligibility. To enroll in the RWH program, residential units and their associated developments must meet the following requirements:
1. Unit Type. RWH units shall be limited to owner occupied studio units which have a single room for living and sleeping, but which may have separate kitchen and bathroom; one-bedroom units; two-bedroom units; and three-bedroom units. Additional limitations on unit size apply to RWH units approved as a density increase, as specified in paragraph E., 1.
  2. Initial Unit Price. RWH units shall be initially sold at no more than \$350,000 per unit. In addition to the foregoing sentence, RWH units shall initially be sold at a purchase price less than the purchase price of units, if any, in the same development that are not enrolled in the RWH program. Initial purchase prices for RWH units shall be specified in the RWH agreement, subject to final approval by the Town Council, and established taking into consideration RWH development assistance provided by the Town, and any other efficiencies, incentives or concessions.
  3. Quality of Construction. RWH units shall be of the same quality of construction and finish, unless otherwise approved by the Town Council, as units, if any, in the same development that are not enrolled in the RWH program.
  4. Income-Restricted RWH Units. One-half (1/2) of the RWH units within the development shall be sold to qualified employees having household incomes greater than 80%, but no more than 140% of the AMI, and the initial sale to a qualified employee shall be at a purchase price that provides for monthly mortgage payments and homeowner, property or condominium association dues in a combined amount that does not exceed 30% of household income at 140% of the AMI. For purposes of this paragraph, monthly mortgage payments shall be not more than the payments based on a 30-year fixed rate, a 5% down payment, and an interest rate based on a first time buyer with good credit.
  5. RWH Units Not Income-Restricted. One-half (1/2) of the RWH units within the development shall be designated for sale to qualified employees without limitations on household income or the combination of monthly mortgage payments and homeowner, property or condominium association dues.
  6. Initial Offer of Non-RWH Units. The remaining residential dwelling units in the development which are not enrolled in the RWH program shall not have income restrictions or other limitations on buyers at the time of sale or resale, except

that such units shall at the time of their initial sale, be offered for a period of 30 calendar days exclusively to persons who are qualified employees. Additional offering restrictions may be agreed to between the developer and the Town, and contained in the RWH agreement.

7. Deed Restrictions. All RWH units shall be subject to a deed restriction prohibiting the sale of the RWH unit to anyone other than a qualified employee or, as further conditioned and allowed by the RWH program and RWH regulations, a qualified employer or non-profit organization. Such deed restrictions shall also require all sales, ownership, leases and use of RWH units to be subject to the RWH program, RWH regulations, and RWH agreement.

E. RWH Development Assistance.

1. Residential Density Increase.

- a. Unless otherwise approved by the Town Council pursuant to the RWH program, residential density for multi-family development shall not exceed:
  - i. Ten (10) multi-family residential dwelling units per acre, where any residential unit is more than 1,000 square feet; or
  - ii. Fourteen (14) multi-family residential dwelling units, per acre, where all residential units are 1,000 square feet or less.
- b. Unless otherwise approved by the Town Council pursuant to the RWH program, residential density for PUD development shall not exceed fifteen (15) residential dwelling units per acre.
- c. Additional residential unit density may be approved in multi-family and PUD developments above that specified in this paragraph E., 1., if:
  - i. All additional residential units are RWH units; and
  - ii. At least eighty percent (80%) of the additional residential units are 1,000 square feet or less.
  - iii. Studio, one-bedroom and two-bedroom units do not exceed 1,000 square feet.
  - iv. Three-bedroom units do not exceed 1,150 square feet.

- d. Residential density shall in no event exceed twenty-one (21) residential dwelling units per acre for any combination of unrestricted and RWH units.
  - e. The limitations specified in this paragraph E., 1., that apply to RWH units approved as a density increase are in addition to the unit size limitations applicable for general enrollment of any residential dwelling unit in the RWH program.
2. Fee Waivers. In exchange for designation of RWH units and their enrollment in the RWH program, the Town Council may, in its sole discretion, waive fees or other charges generally applicable to other developments.
  3. Other Assistance. In exchange for designation of RWH units and their enrollment in the RWH program, the Town Council may, in its sole discretion, waive other requirements generally applicable to similar developments, or provide other financial incentives, concessions and assistance.
  4. Determination of Assistance. In approving RWH development assistance as provided in this subsection, the Town Council shall take into consideration the housing needs within the Town and Eagle County, the general benefits of the RWH units to the public in general and the residents and taxpayer of Gypsum specifically, and the totality of the RWH development assistance provided by the Town.
  5. Specified in RWH Agreement. All RWH development assistance shall be specified in the RWH agreement.

**F. RWH Unit Ownership.**

1. Ownership of RWH Units. Except as provided in this subsection for ownership and rental by governmental and non-governmental employers and non-profit organizations, and for equity partners, upon the initial sale and at all times thereafter as long as an RWH unit remains enrolled in the RWH program, the RWH unit may only be owned by a qualified employee.
2. Purchase Applications. Any person or entity wishing to purchase an RWH unit shall apply to the RWH program administrator. The application shall include proof of residency, employment, income, and any other information deemed necessary or appropriate by the RWH program administrator to determination qualifications and eligibility. A person who applies to purchase an RWH unit, must also submit proof of pre-qualification for financing and purchase of the RWH unit by a bank or other mortgage lender.

3. Priority Purchasers. Qualified employees who are also residents of the Town of Gypsum shall have the highest priority to purchase RWH units.
4. Qualified Employees. To be and remain a qualified employee, applicants to purchase and owners of an RWH unit must:
  - a. Prior Residency. Or a member of the applicant's household must, have been a full-time resident of Eagle County for at least the preceding twelve (12) months; and
  - b. Employment. Or his or her spouse must, be employed by a business located within the Town of Gypsum or the Town of Eagle, or by the United States Forest Service, Bureau of Land Management, Colorado Department of Wildlife, Eagle County School District, Eagle County Government, Colorado Department of Transportation, Colorado State Patrol, Town of Eagle, Town of Gypsum, any fire, police or ambulance district in Eagle County, any hospital located in Eagle County, or any water and/or sanitation district in Eagle County; and
  - c. Primary Residence. Occupy the RWH unit as his or her primary residence. Residency shall be deemed to have been terminated by accepting employment outside of Eagle County for an undefined period of time or for a defined period of time of more than three (3) months, or residing in the RWH unit fewer than nine (9) months out of any twelve (12) month period; and
  - d. Citizenship. Be a United States citizen; and
  - e. Sole Residential Property Ownership. Own no other interest in any residential real property other than the RWH unit; and
  - f. Household Income. Earn at least 75% of the applicant's or owner's household income from employment within Eagle County; and
  - g. Sole RWH Unit. Not participate, or have a household income that includes any person who participates, in any manner as the purchaser, lessee, owner and occupant of more than one RWH unit.
5. Qualified Employers and Non-profit Organizations. Qualified employers and non-profit organizations, may also purchase RWH units, as limited by this paragraph. Prior to purchasing the RWH unit, the purchaser shall enter into a written agreement with the RWH program administrator and, if deemed appropriate by the RWH program administrator, a deed restriction, regarding conditions of leasing the RWH

unit as further provided in the RWH program, and restricting any subsequent sale of the RWH unit to only a qualified employee, or a qualified employer or non-profit organization as allowed by this paragraph.

6. Equity Partner. Not more than one equity partner, whose interest may not exceed 30% of the purchase price of the RWH unit, may participate in the purchase or ownership of an RWH unit. An equity partner may share in the net sale proceeds from the subsequent sale of an RWH unit in the same proportion as their equity interest in the RWH unit, but in no event greater than 30% of the sale proceeds. An equity partner shall have no authority to determine whether or when to sell the RWH unit in which its interest is owned. An equity partner shall not appear as an owner on the deed for the RWH unit, but may record a lien or similar document evidencing its interest in the unit. Equity partners may be required to sign a verification of their interests and agreement to abide by all provisions of the RWH program and RWH regulations.

7. Qualified Employer, Non-profit Organization and Equity Partner Ownership Limitations. No equity partner or qualified employer or non-profit organization shall own and have an equity partner interest in more than three (3) RWH units in any single project at any one time. Solely for the purpose of this limitation, the Eagle County Regional Transportation Authority and the Eagle County Sheriff's Office shall be considered separate entities from Eagle County and its other offices or agencies.

8. Agreement and Deed Restrictions. Any purchaser or owner of an RWH unit may be required to execute and deliver a written agreement and, if deemed appropriate by the RWH program administrator, a deed restriction, to only sell, use, lease, or allow occupancy of the RWH unit in compliance with the RWH program and the RWH regulations, including future sales or transfers only to a qualified employee, equity partner, or qualified employer or non-profit organization as allowed by the RWH program.

G. Leasing and Occupancy of RWH Units.

1. Ownership by a Qualified Employees. No RWH unit that is owned by a qualified employee may be leased.

2. Ownership by Qualified Employers and Non-profit Entities. No RWH unit that is owned by a qualified employer or non-profit organization may be leased except to a qualified lessee upon the following conditions:

a. Periodic Reports. The owner of the RWH unit shall provide copies of all leases and periodic reports to the RWH program administrator verifying the qualifications and eligibility of the lessee.

- b. Lease Term. The term of any lease shall not exceed three (3) years.
  - c. Rental Rate. The amount of rent payable shall be restricted as provided in the written agreement entered into between the owner and RWH program administrator prior to purchase of the RWH unit.
  - d. Other Terms. The owner of the RWH unit shall include in such leases provisions required in the written agreement entered into between the owner and RWH program administrator prior to purchase of the RWH unit, or otherwise reasonably required by the RWH program administrator to ensure qualification of the lessee and compliance with the RWH program and RWH regulations.
3. Qualified Lessee. To be and remain a qualified lessee, a lessee must:
  - a. General Qualifications. But for the fact that the lessee is a lessee and not the owner of the RWH unit, meet all requirements to be a qualified employee, except that the prior residency requirement shall not apply.
  - b. Lessee Income. Have household income not in excess of 140% of AMI.
  - c. Lessees of Employer Owners. In the case of an RWH unit owned by a qualified employer, be an employee of the owner.
4. Occupancy. No RWH unit may be occupied by other than an owner that is a qualified employee, a qualified lessee of a qualified employer or non-profit organization, or members of the qualified employee's or qualified lessee's household. All occupants of an RWH unit must provide proof of United States citizenship. No RWH unit shall be leased, used or occupied so as to evade the intent of the RWH program to make RWH units available to qualified employees, qualified lessees, and their associated households upon which compliance with household income limitations is determined.
5. Waiver. Restrictions on leasing and occupancy of RWH units may be waived by the RWH program administrator to allow a temporary lease for good cause shown, such as a short-term vacation of less than two months, medical emergency, an extended period of unsuccessful sales efforts, or during the administration of an estate.

H. Administration.

1. RWH Regulations. The Town Council may, from time to time, adopt by resolution RWH regulations for administration of the RWH program, consistent with this section.
2. RWH Program Administrator. The Town Council may, from time to time, designate by resolution the RWH program administrator to administer the RWH program in accordance with the terms of this section and the RWH regulations. The RWH program administrator may be an employee, agent or contractor to the Town. The initial RWH program administrator shall be The Economic Council of Eagle County. Prior to appointing an agent or contractor as the RWH program administrator, the Town Council shall review and approve the organizational structure, funding and regulations of such entity. Notwithstanding delegation by this section of any authority to the RWH program administrator, the Town Council, upon notice to the program administrator, may reserve such authority solely to the Town Council.
3. Financing. The RWH program shall be funded through a real estate transfer fee imposed upon the initial sale and all resales of every RWH unit in an amount equal to 2% of the purchase price of the RWH unit. The RWH real estate transfer fee shall be in lieu of any brokerage fee paid to any realtor and shall be utilized by the Town to pay the expenses of administering the RWH program. The Town may provide in the RWH agreement for an exemption from all or a part of the RWH real estate transfer fee for initial sales by the developer, where such sales are not administered or brokered by the RWH program administrator. The Town may delegate to the RWH program administrator the management of the RWH real estate transfer fee. Unless specifically waived by the Town, the RWH real estate transfer fee shall be in addition to any other real estate transfer tax or fee imposed by the Town.

- I. Sunset Provision. Unless otherwise extended by ordinance, no additional developments and no additional residential units shall be enrolled in the RWH program after December 31, 2010. All developments and RWH units enrolled in the RWH program as of that date shall continue to be administered in compliance with this section, as amended from time to time.

**Section 2 – Public Inspection.** Copies of this ordinance and the Gypsum Municipal Code are available for public inspection at the office of the Gypsum Town Clerk.

**Section 3 – Public Hearing:** A public hearing on this Ordinance shall be held on the 12<sup>th</sup> day of February, 2008, at 7:00 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

**Section 4 - Effective Date.** This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 12th day of February, 2008, at 7:00 p.m., at the Gypsum Town Hall, 50 Lundgren Blvd., Gypsum, Colorado.

**Section 5 - Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 8th DAY OF JANUARY, 2008, BY A VOTE OF 4 IN FAVOR AND 1 AGAINST.

TOWN OF GYPSUM

ATTEST:

By: \_\_\_\_\_  
Stephen M. Carver, Mayor

By: \_\_\_\_\_  
Jenny Ellringer, CMC  
Town Clerk

FINALLY ADOPTED, PASSED AND APPROVED ON \_\_\_\_\_, 2008.

TOWN OF GYPSUM

ATTEST:

By: \_\_\_\_\_  
Stephen M. Carver, Mayor

By: \_\_\_\_\_  
Jenny Ellringer, CMC  
Town Clerk