

ORDINANCE NO. 722

AN ORDINANCE AMENDING THE HAYDEN MUNICIPAL CODE BY ADDING LANGUAGE AT SECTION 7.24.300, COMMUNITY HOUSING STANDARDS, IN TITLE 7: THE HAYDEN DEVELOPMENT CODE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Town of Hayden has previously adopted and amended Title 7, Hayden Development Code (HDC), of the Hayden Municipal Code governing the use, subdivision and development of real property codes within the Town limits; and

WHEREAS, the Town of Hayden conducted a Housing Needs Assessment and Action Plan better understand the lack of affordable housing inventory in the community.

WHEREAS, the Hayden Town Council (Council) directed staff to create Community Housing Standards within the HDC to encourage and require the development of affordable housing within the Town of Hayden; and

WHEREAS, in accordance with the requirements of the Hayden Home Rule Charter, after providing proper notice, the Hayden Town Council held a public hearing on November 3, 2022; and considered all public comments received and all testimony and materials provided by Town Staff prior to making a decision; and

WHEREAS, the Council desires to adopt regulations that require Community Housing Standards are met as such are defined in the HDC under certain limited standards as further set forth herein with the findings that:

1. The adoption and enactment of standards related to Community Housing within the Hayden Development Code promotes the health, safety and general welfare of the Hayden community; and
2. The adoption and enactment of standards related to Community Housing within the Hayden Development Code promotes or implements the goals and policies of the Hayden Forward Master Plan; and
3. The adoption and enactment of standards related to Community Housing the Hayden Development Code is necessary or desirable to respond to changed conditions or other social or economic conditions.

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply the requirements of the Hayden Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the proposed Community Housing standards and that approval of this Ordinance on first reading

does not constitute a representation that the Council, or any member of the Council, supports, approves, rejects, or denies this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO THE FOLLOWING:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Enacted. The following language is hereby enacted at Section 7.24.300, Community Housing Standards of Title 7, Hayden Development Code, of the Hayden Municipal Code:

7.24.300 Community Housing Standards.

- (a) Purpose. The purpose of this Community Housing policy is to address the critical lack of housing across nearly all income levels that is imposing a high housing cost burden and limiting the local workforce. This mitigation is an effort to preserve the health, safety, welfare, and quality of life for residents in this community through housing that is attainable. This is accomplished through the establishment of community housing requirements for development, which requires a portion of all new residential development to be set aside for community housing purposes as a condition of approval for such development.
- (b) Applicability. Compliance with the Community Housing Policy shall be required as a condition of approval for all residential development, including: annexations, subdivisions, planned unit developments, or site plan review applications, unless exempted by the section below. In the case where no land use application is made, any building permit application with five or more dwelling units is also subject to these regulations.
- (c) Exemptions.
 - (1) Designated employee dwelling units.
 - (2) Single-family and two-family dwellings on a single pre-existing lot.
 - (3) Three-family dwelling units on a single pre-existing lot.
 - (4) Development in which a minimum of 50% of units are dedicated to households up to 120% AMI.
 - (5) Administrative and Minor Subdivisions resulting in less than two new lots.
 - (6) Commercial and Industrial developments without a housing component.
 - (7) Vested land use approvals pre-dating November 3rd, 2022.
- (d) Community Housing Requirements. All new residential subdivisions and all new multi-family residential developments shall set aside housing units for community housing as set forth in this Section.
 - (1) New Development Requirements.
 - (i) Residential developments of greater than four units shall be required to provide ten (10) percent of the total units as Community Housing AMI Category units, which shall include ten (10) percent of the total bedrooms.
 - (ii) Housing cost shall not exceed greater than 30% of the gross income of the household in each required Community Housing AMI Category units.

- (iii) Community housing units shall be encumbered through the use of deed restrictions, an agreement with the Town of Hayden or a combination thereof, as determined in the sole discretion of the Town.
 - (iv) Deed restrictions and/or agreements are not eligible for renegotiation for a period of 30 years unless otherwise initiated by the Town.
 - (v) All new development shall require the submittal of a Community Housing Plan that details the restrictions placed on the units for review by Town staff along with development application materials unless otherwise exempted from these requirements.
- (2) Fractional Remainders The development's mitigation responsibility will be rounded up to the nearest whole number or pay a fee in lieu based upon the remaining percentage of a unit calculation.
- (3) Sequencing of Community Housing Units. The income categories correspond with current HUD Area Median Income (AMI) limits. The sequence of required Community Housing units will be as follows:
- (i) First Community Housing unit: Category 2 (100% AMI).
 - (ii) Second Community Housing unit: Category 1 (80% AMI)
 - (iii) Third Community Housing unit: Category 3 (120% AMI)
 - (iv) Fourth Community Housing unit: Category 4 (150% AMI)
 - (v) Repeat the cycle for additional Community Housing units.
- (4) Implementation.
- (i) Timing of Occupancy. The Community Housing units shall be ready for occupancy no later than the occupancy of market rate units within the project. If the market rate units are to be developed in phases, then the community housing units can be developed in proportion to the phasing of the market rate units.
 - (ii) Community Housing Unit design. The Community Housing units shall be of average size, bedroom count, design, and construction quality as market rate units in the same development.
 - (iii) Community Housing unit location. The Community Housing units shall be interspersed with the market rate units and not clustered and/or sequestered.
- (e) Alternative Methods to Satisfy the Requirements of this Section.
- (1) A fee in lieu of community housing requirements are calculated at a value of 10% of the appraised housing unit cost.
- (i) Unit value will be determined by appraisal provided by the applicant.
 - (ii) If unit value is in dispute, the Town reserves the right to contract their own appraisal.
- (2) Land dedication in lieu of Community Housing requirements.
- (i) Dedicated land must be of approximate equivalent value to the fee in lieu.
 - (ii) Dedicated land must be unencumbered, appropriately entitled, and be served with equivalent infrastructure as the remainder of the development unless otherwise agreed to by the Town Council.
 - (iii) Land dedication shall be conveyed to the Town of Hayden at the time of recordation of the final plat.
- (3) An applicant may propose an alternative significant community benefit to be implemented in lieu of the minimum compliance.

- (f)** Significant Community Benefit procedure.
 - (1) Submittal requirements.
 - (i) Estimated financial impact provided to the community.
 - (ii) Timeline for implementation.
 - (iii) Narrative explaining how the alternative significant community benefit will improve health, wellness, safety, education, or economic outcomes of the community.
 - (iv) Additional documentation, studies, or information is required by staff or Town Council.
 - (2) Review Process:
 - (i) An alternative significant community benefit plan may be submitted to the Town prior to, or at the time of a Site Plan application, Preliminary Plat application, or building permit application in a project that no Planning application is required.
 - (ii) The Town Council shall act as the approving body and determine if a specific alternative significant community benefit is acceptable in a public meeting.
 - (iii) If the alternative significant community benefit is deemed satisfactory by the Town Council bonding, commitment guarantee, and/or an improvement agreement may be required to secure the proposal is enacted as part of the overall project.
- (g)** Applicability to Subdivision of Undeveloped Land. In the case that land is subdivided and conveyed to individual owners in a vacant or undeveloped status, the subdivider of the land shall meet one of the following options.
 - (1) Fee in lieu of construction of community housing units based upon 10% of the market value of a dwelling unit to be constructed on the vacant property. The dwelling unit value will be derived from an appraisal of home sales on similar size and valued lots over the prior two-year period within the Town of Hayden.
 - (2) Land dedication in lieu of construction of community housing units proportional with the fee in lieu value.
 - (3) Alternative significant community benefit proportional with the fee in lieu value.
- (h)** Incentives. Developments that exceed the required Community Housing Standards may qualify for the following incentives. All incentives require approval by the Town Manager.
 - (1) Flexibility in dimensional standards (ie reduction in minimum lot size, decreased setbacks, increase in maximum structure height).
 - (2) Review fee waivers or reductions.
 - (3) Property tax incentives.
 - (4) Infrastructure support in special circumstances.
- (i)** Applicability of Other Provisions of Title 7. The provisions of this Section are in addition to all other provisions and requirements of this Code pertaining to development of real property, including those contained in other sections of this chapter, the subdivision regulations, and the zoning regulations.

Section 3. Codification Amendments. The codifier of the Town's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Hayden Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 6. No Existing Violation Affected. The repeal or modification of any provision of the Municipal Code of the Town of Hayden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 7. Effective Date. This Ordinance shall be in full force and effect immediately on final passing and adoption, and shall be published in accordance with Section 3-3h of the Home Rule Charter and recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk.

Section 8. Public Hearing on Ordinance No. 713. A public hearing on this Ordinance will be held on November 3, 2022 at the regular meeting of the Hayden Town Council beginning at 7:30 p.m. at the Hayden Town Hall, 178 West Jefferson Avenue, Hayden, Colorado.

INTRODUCED, READ AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3(d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ON October 20, 2022, and setting a public hearing for November 3, 2022 at the Council Chambers of the Hayden Town Hall, located at 178 West Jefferson Avenue, Hayden, Colorado.

BY: 
Zachary Wuestewald, Mayor

ATTEST: 
Sharon Johnson, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3(h) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 3RD DAY OF NOVEMBER, 2022.

BY: 
Zachary Wuestewald, Mayor

ATTEST: 
Sharon Johnson, Town Clerk

