

Teton County & Town of Jackson *Wyoming*



Division 6.3 Affordable Workforce Housing Standards

Public Review Draft: March 16, 2018



Table of Contents

6.3.1. Purpose and Findings	1
A. Purpose	1
B. Legislative Findings	1
C. Technical support.....	3
D. Authority	3
6.3.2. Applicability.....	3
A. Approved Unbuilt Development	3
B. Exemptions.....	3
11. Non-Single-Family Subdivision. Land division in the AC, WC, OP, BP, P, and P/SP zones.	4
6.3.3. Amount of Affordable Workforce Housing Required	4
A. Requirement	4
B. Independent Calculation	6
6.3.4. Type of Affordable Workforce Housing Required	8
A. Unit types allowed.	8
B. Affordability.	8
C. Unit Size - Allocation of bedrooms per unit.....	9
D. Required components of livability.	9
E. Compliance with Rules and Regulations.	9
6.3.5. Method for Providing Required Affordable Workforce Housing	10
A. Standards Applicable to All Methods.....	10
B. Preferred Methods.	11
C. Priority Method Impracticable.....	11
D. Standards Applicable to Specific Methods	11
6.3.6. Housing Mitigation Plan and Housing Mitigation Agreement	15
A. Housing Mitigation Plan.....	15
B. Housing Mitigation Agreement.....	17
Additional Standards Outside of Division 6.3	18
References to concurrent updates	18
References throughout the rest of the LDRs	18
Definitions to be added.....	18

6.3.1 Purpose and Findings

Adoption of these standards will repeal Division 7.4 and Division 6.3 and replace Division 6.3 with the following.

6.3.1. Purpose and Findings

A. Purpose

The purpose of these affordable workforce housing standards is to ensure that affordable workforce housing is provided to the local workforce by new physical development, use, development options, and subdivision proportionate with the need for affordable workforce housing they create.

B. Legislative Findings

In adopting this Section, the **Town Council/Board of Teton County Commissioners** finds:

- 1. A local workforce is a defining feature of community character.** An essential component of the community character and social, economic, and political fabric of Teton County and the Town of Jackson over the years is the presence of those persons and families that work in the community, live in the community, attend schools in the community, worship in the community, and vote in the community. Maintenance of a local workforce is key to a balanced and sustainable local economy and resilient level of critical service provision.
- 2. Supply of local workforce housing is limited by affordability.** One of the primary factors that historically allowed this special community character in Teton County and the Town of Jackson is that, until the mid-1990s, the cost of housing was affordable to those persons living and working in the community. Beginning in the mid-1980s, a significant second home market emerged in Jackson Hole. These home buyers came from different parts of the country and had substantially higher incomes than the local workforce. They have contributed to a dramatic increase in land and construction costs in the community, resulting in a substantial increase in the price of housing. This increase in housing prices, when coupled with a slight increase or static local workforce wages (accounting for inflation), has made market-rate housing unaffordable to most of the local workforce, forcing many to move outside the community. Review of state and national census and other wage and labor data demonstrate this trend.
 - a.** In 1986, median sales prices of homes (\$90,000) in Teton County and the Town of Jackson were on target with the affordable housing price for a median income household (\$90,667). From that point in time forward, housing prices have increased so that they no longer align with what is affordable to median income households.
 - b.** By 2000, the median sales price (\$565,000) was nearly three times the price that was affordable to a median income household (\$196,333).
 - c.** In 2007, the median sales price (\$1,075,000) was approximately four times the price affordable to a median income household (\$270,000).
 - d.** While the Great Recession had an impact on housing prices, even during the downturn housing was never affordable to most of the workforce. In 2012, the median sales price of housing (\$853,150) was more than 2.6 times the price that is affordable to a median income household (\$320,667).

6.3.1 Purpose and Findings

- e. By 2016, the affordability gap had returned to pre-Great Recession levels with the median sales price (\$1,130,000) at 3.95 times the price that is affordable to a median income household (\$286,000).
- 3. **As a result, the percentage of the workforce living locally has declined.** This phenomenon has resulted in a number of persons employed in the community and their families being forced to move outside the community, to places like Teton County, Idaho and Lincoln County, Wyoming. Estimates indicate that in 1986 approximately 91% of the workforce lived locally. In 1995 this number had decreased to approximately 80%. By 2005 it was 68%. By 2015, it was estimated only 58% of the workforce resided locally.
- 4. **The decline in the local workforce has resulted in a deterioration of community character.** This decline in the percentage of the workforce living locally has resulted in an impairment of the social, economic, and political fabric of the community, along with the community's character. Estimates indicate this problem will continue to worsen in the future, unless additional housing is provided within price and rental ranges that are affordable to the workforce. More specifically:
 - a. A local workforce household is more likely to reinvest socially, civically, and economically in the community. As a greater percentage of the workforce commutes, their children no longer attend schools in the community, they no longer worship in the community, and they no longer express their ideas at the ballot box.
 - b. A local workforce results in a more balanced and sustainable local economy and resilient provision of critical services. As the community becomes more reliant on commuters it also becomes more susceptible to weather events that adversely impact the local economy and the provision of critical community services.
 - c. A local workforce also results in a healthier ecosystem. A commuter workforce generates more traffic than a local workforce, which results in greater impact to wildlife and the environment in general.
 - d. The lack of affordable workforce housing opportunities will result in the loss of generational continuity. If there are few housing opportunities available that are affordable to the workforce, there is little chance children who grow up in the community can raise their own families in the community, and continue to support and participate in the civic and social life of the community which they have been a part of their entire lives.
- 5. **As a result the community set a workforce housing goal.** To address the impacts from this loss of the local workforce, in 2012 Teton County and the Town of Jackson set a goal In the *Jackson/Teton County Comprehensive Plan* to ensure a variety of workforce housing opportunities exist in the community so that at least 65% of those employed locally live locally.
- 6. **To implement this goal, development must provide mitigation for the need for affordable workforce housing it creates.** To assist in the implementation of this goal, these standards require new physical development, use, development options, and subdivision to provide affordable workforce housing proportionate to the need it creates.
- 7. **For these reasons,** these affordable workforce housing standards, are hereby adopted by the **Town Council/Board of County Commissioners.**

6.3.2 Applicability

C. Technical support

The technical support and analysis upon which these affordable workforce housing standards are established is based upon *The Teton County and Town of Jackson Employee Generation Land Use Study (August 22, 2013)*, as amended, which is incorporated herein by reference.

D. Authority

The Board of County Commissioners has the authority to adopt these affordable workforce housing standards in accordance with the Wyoming Constitution, Section 18-5-202 *et. seq.*, Wyoming Statutes, and such other authorities and provisions that are established in the statutory and common law of the State of Wyoming.¹

6.3.2. Applicability

These affordable workforce housing standards apply to any *employee generating development*, unless exempted below.

A. Approved Unbuilt Development

1. **Approval prior to February 21, 1995.** *Employee generating development* approved prior to February 21, 1995 which has not yet been developed shall also be subject to this Division upon submittal of any required application to complete the development.
2. **Substantial amendment to prior approval.** In addition, this Division shall apply to all *employee generating development* not completed under an existing approval when that existing approval is substantially amended, regardless of whether the amendment applies to the entire uncompleted portion of the approval, and regardless of the approved Housing Mitigation Plan (or Housing Mitigation Agreement). A substantial amendment is any amendment that would increase the amount of affordable workforce housing required. *For example: A Sketch Plan was approved for a three building development and included a Housing Mitigation Plan. Only one building has been built, and only the required housing associated with the built building has been provided. An amendment to the Sketch Plan is proposed to increase the size of one of the unbuilt buildings. The amount of affordable workforce housing required to approve the amendment would be equal to the current requirement for both unbuilt buildings.*

B. Exemptions

The following are exempt from the standards of this Division.

1. **Existing.** An existing physical development or use, and maintenance or alteration of an existing physical development or use.
2. **Prior approval.** Approved *employee generating development* with an approved Mitigation Plan that is completed pursuant to the approval.

¹ In the Town LDRs, this provision will state:

The Town Council of the Town of Jackson has the authority to adopt these affordable workforce housing standards in accordance with Article 13, Section 1 of the Wyoming Constitution, and Section 15-1-601, *et. seq.*, Wyoming Statutes, and such other authorities and provisions that are established in the statutory and common law of the State of Wyoming.

6.3.3 Amount of Affordable Workforce Housing Required

3. **Replacement.** Replacement of an existing physical development, use, development option, or subdivision within 12 months, except for:
 - a. Any expansion of the existing physical development, use, development option, or subdivision; or
 - b. Replacement of an existing residential use for which housing mitigation has not been provided. *For example: An existing apartment building built prior to 1995 is being razed to build a new apartment building. Because the apartment building being razed did not provide any affordable housing mitigation when it was built, the new apartment building would be subject to this Division as though the apartment building being razed did not exist.*
4. **Affordable workforce housing unit.** A residential unit subject to a deed restriction administered by the Housing Department, Jackson Hole Community Housing Trust, or Habitat for Humanity of the Greater Teton Area. (This exemption shall not apply to an occupancy restriction as defined in the Housing Department Rules and Regulations.)
5. **Agriculture.** An agriculture use (6.1.3.B).
6. **2,000 sf local occupancy detached single-family unit.**² A detached single-family unit (6.1.4.B) of 2,000 square feet or less, which meets the standards for local occupancy established in 6.3.3.A.8. (Upon expansion of such a unit beyond 2,000 sf, this Division shall apply to the entire unit.)
7. **Mobile home.** A mobile home (6.1.4.E) or mobile home park (7.1.4).
8. **Dormitory.** A dormitory (6.1.4.F).
9. **Group home.** A group home (6.1.4.G).
10. **Accessory use.** An accessory use (6.1.11), except for a Bed and Breakfast (6.1.11.C).
11. **Workforce housing incentive.** A residential unit approved pursuant to Division 7.8, whether deed restricted or not.³
11. **Non-Single-Family Subdivision.** Land division in the AC, WC, OP, BP, P, and P/SP zones.⁴
12. **Public/semi-public zone.** Physical development, use, development option, or subdivision in the public/semi-public zone.
13. **Alta.** Physical development, use, development option, or subdivision west of the Tetons.

6.3.3. Amount of Affordable Workforce Housing Required

A. Requirement

Any *employee generating development* to which this Division applies shall provide at least the amount of affordable workforce housing determined by the following calculations. The calculations vary by the use being proposed and are the function of the size of the proposal. The calculations are based on the analysis found in the *Teton County and Town of Jackson Employee*

² County LDRs only

³ Town LDRs only

⁴ In the Town LDRs, the list will be: the DC, CR-1, CR-2, CR-3, OR, TS, UC, BP, NH-1, NM-2, NM-1, P, and P/SP zones.

Div. 6.3 Affordable Workforce Housing Standards – Public Review Draft**6.3.3 Amount of Affordable Workforce Housing Required**

Generation Land Use Study (August 22, 2013), as amended, and assume an affordable workforce housing unit houses 1.8 local employees.

Use Proposed	Affordable Workforce Housing Units Required
Detached Single-Family Unit (6.1.4.B) (Non-Local Occupancy, A.8)	$0.000017(sf) + (\text{Exp}(-15.49 + 1.59 * \text{Ln}(sf)))/2.414$
Detached Single-Family Unit (6.1.4.B) (Local Occupancy, A.8)	$0.000017(sf) + (\text{Exp}(-16.14 + 1.59 * \text{Ln}(sf)))/2.414$
Attached Single-Family Unit (6.1.4.C), Apartment (6.1.4.D) (Non-Local Occupancy, A.8)	$0.000017(sf) + (\text{Exp}(-14.17 + 1.59 * \text{Ln}(sf)))/2.414$
Attached Single-Family Unit (6.1.4.C), Apartment (6.1.4.D) (Local Occupancy, A.8)	$0.000017(sf) + (\text{Exp}(-14.82 + 1.59 * \text{Ln}(sf)))/2.414$
Conventional Lodging (6.1.5.B), Short-Term Rental Unit (6.1.5.C)	$0.204 * \text{room}$
Office (6.1.6.B)	$0.000655 * sf$
Retail (6.1.6.C), Service (6.1.6.D), Heavy Retail/Service (6.1.6.F), Nursery (6.1.6.H), Amusement (6.1.7.B), Adult Entertainment Business (6.1.7.F)	$0.000573 * sf$
Restaurant/Bar (6.1.6.E)	$0.001589 * sf$
Industrial Uses (6.1.9), Transportation/ Infrastructure Uses (6.1.10), Mini-Storage Warehouse (6.1.6.G)	$0.000326 * sf$
Institutional Uses (6.1.8)	$0.000698 * sf$

- 1. Schedule and calculator available.** A schedule of the requirement for *employee generating development* of various sizes and a calculator to use in determining the requirement are both available in the Administrative Manual. The residential requirement is a logarithmic equation because there is an exponential relationship between the size of a unit and the number of operations and maintenance employees generated.
- 2. Use not listed.** For uses not listed, the Planning Director shall either find a use comparable to the proposed *employee generating development* and utilize the comparable calculation, or require the applicant to conduct an independent calculation pursuant to 6.3.3.B to determine the requirement.
- 3. Expansion.** In the case of an expansion to an existing physical development, use, development option, or subdivision, the amount of affordable workforce housing required shall be calculated based only on the expansion.
- 4. Change of Use.** In the case of a change of use, the amount of affordable workforce housing required shall be the difference between the requirement for the proposed use and the requirement for the existing use. An existing use shall not have been discontinued for longer than 12 months.
- 5. Estimating use or size.** Where the use or size of the proposal is unknown, the following estimates shall be used:

6.3.3 Amount of Affordable Workforce Housing Required

- a. **Platting vacant single family-lots.** For subdivision in the R-1, R-2, R-3, R-TC, S, NC, BC, and AR zones⁵, the maximum habitable floor area allowed above ground on each lot proposed shall be used to calculate the amount of affordable workforce housing required at the time of subdivision. If additional habitable floor area is proposed at the time of building permit, the additional affordable workforce housing mitigation as required by this Section shall be required at that time.
 - b. **Unknown use.** For the development of floor area with an unknown use, the allowed use in the zoning district with the greatest need for affordable workforce housing shall be used, except that use of a Restaurant/Bar use shall only be required in association with a Restaurant/Bar use permit.
6. **Sf.** In the calculations “sf” is equal to the habitable floor area (in square feet), including basement, of each residential, lodging, or nonresidential unit.
 - a. The calculation for a multi-unit building shall be the sum of the calculation for each unit.
 - b. Common hallways, entryways, stairways, and other circulation areas in buildings with multiple residential or nonresidential units, that are not within any individual unit, shall not be included in the calculation.
 - c. Other square footage used for commercial activity that are not habitable floor area, such as outdoor seating and sales areas, shall be included in the calculation.
7. **Room.** In the calculations “room” is equal to a single lodging room. In the case of a conventional lodging or short-term rental with multiple bedrooms per unit, the number of rooms used in the calculation shall be the number of bedrooms, not the number of units.
8. **Local occupancy restriction.** The requirement for non-local occupancy shall be applied to all residential uses. In order to utilize the local occupancy calculation, an occupancy restriction as defined in the Housing Department Rules and Regulations shall be placed on the unit. (Placement of an affordable restriction or workforce restriction, as defined in the Housing Department Rules and Regulations, shall exempt the unit from any requirement pursuant to 6.3.2.B.4.) In order to remove such a restriction, the affordable workforce housing required on the date of the removal shall be provided. In the case of removal of an occupancy restriction the affordable workforce housing requirement shall be calculated as a change of use from local to non-local occupancy.
9. **Update requirement regularly.** The determination of need for affordable workforce housing shall be evaluated and updated at least every five years to account for changes in the economic and demographic trends in the community. Updates shall be based on update to *The Teton County and Town of Jackson Employee Generation Land Use Study* (August 22, 2013), as amended.

B. Independent Calculation

Where applicable, an independent calculation shall establish the amount of affordable workforce housing required.

⁵ In the Town LDRs, the list will be: the R, NL-1, NL-2, NL-3, and NL-4 zones.

1. **Applicability**

- a. **Applicant option.** An applicant may elect to prepare an independent calculation of the required affordable workforce housing if the applicant believes the nature, timing, or location of the proposed *employee generating development* is likely to create less need for affordable workforce housing than otherwise required in this Section.
- b. **Unspecified use.** The Planning Director may require an independent calculation of the need created for required affordable workforce housing if:
 - i. A calculation for the proposed use is not established in Sec. 6.3.3.A; or
 - ii. A proposed use does not rely on floor area; or
 - iii. The Planning Director finds the *employee generating development* to be unique from the general circumstances surveyed in *The Teton County and Town of Jackson Employee Generation Land Use Study* (August 22, 2013), as amended.

2. **Calculation Methodology.** An independent calculation shall use the methodology used in the *Teton County and Town of Jackson Employee Generation Land Use Study* (August 22, 2013) to generate the calculations in 6.3.3.A. That methodology is represented by the following equation:

$$\text{Requirement (units per sf/room)} = [A/30/X*Y] + [B/X*Y] + [C/X*Y] + [D/W*Y]$$

- a. A = the number of construction workers needed to construct one sf/room of the use.
- b. B = the post-construction workers needed to operate one sf/room of the use. In the case of residential development these are the operations and maintenance employees such as landscapers, trash collectors, and property managers. In the case of nonresidential development these are the employees who work at the use.
- c. C = the number of fire and emergency medical personnel needed to serve one sf/room of the use.
- d. D = the number of law enforcement personnel needed to serve one sf/room of the use.
- e. 30 = the 30 year average career of a construction worker.
- f. X = the average number of workers in the household of an employee in a specific industry.
- g. Y = the percentage of workers in a specific industry that cannot afford market housing.

3. **Calculation Values.** The values in the *Teton County and Town of Jackson Employee Generation Land Use Study* (August 22, 2013), as amended, shall be used in the independent calculation except pursuant to the following standards.

- a. **Values that may be altered.** In equation for independent calculation an alternate value shall only be used for A, B, or C.
- b. **Alternate values.** The alternate value proposed shall be calculated using:
 - i. Generally recognized principles and methods of impact analysis; and
 - ii. Verifiable local information and data.

6.3.4 Type of Affordable Workforce Housing Required**6.3.4. Type of Affordable Workforce Housing Required**

The affordable workforce housing units required by this Division shall comply with the following requirements to ensure their affordability and livability.

A. Unit types allowed.

A required affordable workforce housing unit shall be a detached single-family unit (6.1.4.B), attached single-family unit (6.1.4.C), apartment (6.1.4.D), or accessory residential unit (6.1.11.B). No other residential or lodging unit type shall be required affordable workforce housing.

B. Affordability.

- 1. Restriction.** Each affordable workforce housing unit shall be subject to one of the following restrictions.
 - a. Less than 50% of Median Income.** An affordable rental restriction, as defined in the Housing Department Rules and Regulations, ensuring affordability for households making 50% of family median income or less.
 - b. 50%-80% of Median Income.** An affordable rental restriction, as defined in the Housing Department Rules and Regulations, ensuring affordability for households making above 50% up to 80% of family median income.
 - c. 80%-120% of Median Income.** An affordable rental or affordable ownership restriction, as defined in the Housing Department Rules and Regulations, ensuring affordability for households making above 80% up to 120% of family median income.
 - d. 120%-200% of Median Income.** A workforce rental or workforce ownership restriction, as defined in the Housing Department Rules and Regulations, for households making above 120% up to 200% of family median income.
- 2. Allocation of restrictions.** The above restrictions shall be allocated to the required units in the following order. For requirements above 8 units the order of allocation shall repeat. A fractional requirement shall be the last allocated.

Affordability Restriction				
Units Required	<50%	50%-80%	80%-120%	120%-200%
1	0	1	0	0
2	0	1	1	0
3	1	1	1	0
4	2	1	1	0
5	2	2	1	0
6	2	2	2	0
7	3	2	2	0
8	3	2	2	1

- a.** The Housing Director may adjust the restriction allocation in accordance with the procedure of Sec. 8.8.1 and the following standards.
 - i.** The adjustment shall not reduce the required number of units.
 - ii.** The restriction allocation shall meet the following distribution.

Div. 6.3 Affordable Workforce Housing Standards – Public Review Draft**6.3.4 Type of Affordable Workforce Housing Required**

Affordability Restriction	Percentage of Required units
< 50%	At least 34%
50%-80%	At least 27%
80%-120%	No more than 23%
120%-200%	No more than 15%

- 3. Allocation of restrictions by unit size.** To the maximum extent practicable the allocation of restrictions shall be evenly distributed across all unit sizes.

C. Unit Size - Allocation of bedrooms per unit.

The size of the required units, in number of bedrooms, shall be determined in the following order. For requirements above 4 units the order of allocation shall repeat. A fractional requirement shall be the last allocated.

Number of Bedrooms			
Units Required	1 Bedroom or Studio	2 Bedroom	3 Bedroom
1	0	1	0
2	0	2	0
3	0	2	1
4	1	2	1
*Assumed Employees per Unit	1.45	1.85	2.1

- 1. Administrative Adjustment.** The Housing Director may adjust the bedroom allocation in accordance with the procedure of Sec. 8.8.1 and the following standards.
- The adjustment shall not reduce the required number of units.
 - The maximum number of bedrooms in any unit shall be 3.
 - The bedroom mix shall serve the needs of the local workforce.
 - The bedroom allocation shall provide housing for a total number of workers equal to the required number of units times 1.8 workers per unit. The number of workers housed through the proposed bedroom allocation shall be calculated using the employees per unit assumed in the above table.

D. Required components of livability.

Each required affordable workforce housing unit shall include, at a minimum the following components of livability as they are defined in the Housing Department Rules and Regulations.

1. A fully equipped kitchen;
2. A fully equipped bathroom;
3. An area for living;
4. An area for sleeping; and
5. An area for storage.

E. Compliance with Rules and Regulations.

Each required affordable workforce housing unit shall comply with the Housing Department Rules and Regulations.

6.3.5 Method for Providing Required Affordable Workforce Housing

1. The Jackson/Teton County Affordable Housing Department (“Housing Department”) is responsible for administration of any affordable workforce housing units established in accordance with this Division, as well as other affordable workforce housing units it is directed to administer by the **Town Council/Board of County Commissioners**.
2. To assist in the administration of this Division, the Housing Department is authorized to establish the Jackson/Teton County Housing Department Rules and Regulations, which shall authorize the Housing Department to:
 - a. Manage and oversee all affordable workforce housing units.
 - b. Determine the structure and design of the units.
 - c. Determine the building materials to be used for the units.
 - d. Administer the marketing of the units.
 - e. Establish rules for qualifying renters and buyers, and administer selection of renters and buyers.
 - f. Establish rules for and monitor the units to ensure applicants, renters, and sellers comply with the requirements of this Division and the Rules and Regulations. The Rules and Regulations shall also include rules addressing:
 - i. Renter and buyer non-compliance, which may include but is not limited to requirements for disqualification and prosecution for fraud.
 - ii. Seller non-compliance (for initial or subsequent sales), which may include but is not limited to issuance of an affidavit affecting title and prosecution for fraud.
 - iii. Housing Department reimbursement by the renter, seller, or applicant, for any attorney’s fees and other costs associated with the Department’s compliance enforcement.

6.3.5. Method for Providing Required Affordable Workforce Housing

A. Standards Applicable to All Methods

Regardless of the method used to provide the affordable workforce housing required, each required affordable workforce housing unit provided shall comply with the following standards.

1. **Type.** Each required affordable workforce housing unit shall meet the standards of Section 6.3.4, as well as all other standards of these LDRs and the Housing Department Rules and Regulations.
2. **Location.** Each required unit shall be located in the Town of Jackson or in Teton County east of the Tetons, and shall be in an area determined suitable for affordable workforce housing.
3. **Deed Restriction.** To ensure compliance with the standards of this Division, the property of each affordable workforce housing unit and the property of the *employee generating development* shall both be subject to a deed restriction, in perpetuity, and a Housing Mitigation Agreement. More specifically:
 - a. **Deed restriction.** The property of the affordable workforce housing unit and the property of the *employee generating development* shall be subject to a deed restriction in a form established and approved by the Housing Department, and included in the Rules and Regulations.

- b. Housing Mitigation Agreement.** The property of the affordable workforce housing unit and the property of the *employee generating development* shall also be subject to a Housing Mitigation Agreement which shall be recorded against the property of the *employee generating development* in a form acceptable to the **Town/County** Attorney.

B. Preferred Methods.

Each *employee generating development* subject to the requirements of this Division shall provide the required affordable workforce housing by one or a combination of the methods identified below, in order of priority. Alternate methods shall not be proposed.

1. Construction of required affordable workforce housing on the site of the *employee generating development*, or off-site.
2. Conveyance of land for affordable workforce housing.
3. Utilization of a banked affordable workforce housing unit.
4. Restriction of an existing residential unit as an affordable workforce housing unit.
5. Payment of an in-lieu fee.

C. Priority Method Impracticable

A required affordable workforce housing unit shall be provided through the highest priority method practicable. A lower priority method may be used upon making one of the following findings for each higher priority method.

1. **Less than one unit.** An in-lieu fee may be paid for an affordable workforce housing requirement of less than one unit.
2. **On-site provision impractical.** On-site provision of the required workforce housing:
 - a. Is inconsistent with the Comprehensive Plan or LDRs; or
 - b. Does not comply with other Town, County, State, or Federal laws; or
 - c. Is unreasonable due to lack of infrastructure, inappropriate soils, or other site conditions.
3. **Off-site methods not reasonably available.** A good faith effort to provide the required affordable workforce housing units off-site, is unsuccessful due to infrastructure, regulatory (either Town, County, State or Federal), or other site constraints of the land, or due to the price at which the land was available for sale. Conditions relevant to these constraints include but are not limited to factors like:
 - a. No off-site options are for sale that would support affordable workforce housing units at an economically feasible density to provide the amount of affordable workforce housing units required.
 - b. The inability to provide the needed infrastructure (e.g., roads, water supply, sewage disposal, telephone, electricity and gas) for the development of available off-site locations.

D. Standards Applicable to Specific Methods

In addition to the standards applicable to all methods, the following shall also apply to the specific method used for the provision of affordable workforce housing.

1. **Construction.** Construction of required affordable workforce housing units shall comply with the following standards.
 - a. **Timing.** Unless an alternate phasing plan is established in the Housing Mitigation Agreement, each required affordable housing unit shall be reviewed and constructed pursuant to the following standards. If an alternate phasing plan is established, the Housing Mitigation Agreement shall include financial assurances that the construction will occur.
 - i. Each required affordable workforce housing unit constructed shall receive a certificate of occupancy prior to the granting of the applicable certificate of occupancy, use permit, or subdivision plat for the *employee generating development*.
 - ii. If the *employee generating development* is approved for phases, the required affordable workforce housing units shall be constructed in proportion to the phases of the *employee generating development*. The phasing plan shall be established in the Housing Mitigation Agreement. The phasing plan shall require a recalculation of the amount of affordable workforce housing required at each phase.
 - iii. The application to construct the affordable workforce housing shall be sufficient in order for an application for development plan, use permit, or building permit for *employee generating development* to be determined sufficient.
 - iv. The approval process for the *employee generating development* shall occur concurrent with the approval process of the required affordable workforce housing development. [For example: an employee generating development proposes off-site required affordable workforce housing of a scale that requires a development plan. The development plan for the employee generating development shall not be approved until the development plan for the required affordable workforce housing is approved.]
2. **Conveyance of Land.** Conveyance of land for affordable workforce housing shall comply with the following standards.
 - a. **Acceptance.** Land conveyed shall only be approved and accepted at the discretion of the **Town Council/Board of County Commissioners**, regardless of the decision maker on approval of the *employee generating development* that is providing the mitigation.
 - b. **Timing.** Land conveyance shall occur concurrently with approval of the development plan, use permit, or building permit, whichever occurs first, unless a different time of conveyance is established in the Housing Mitigation Agreement. If a different time is established, the Housing Mitigation Agreement shall include financial assurances that land conveyance will occur.
 - c. **Amount.** Land conveyed shall be in an amount that allows for economically feasible construction of at least the amount of affordable workforce housing units required under the zoning applicable to the land, at the time of conveyance. The value of the land conveyed shall also be at least equal to the in-lieu fee that would be required.
 - d. **Confirmation of fair market value.** The fair market value of the land conveyed shall be confirmed at the time of conveyance. Fair market value shall be net of any customary real estate commission for the sale of land.

- e. **Clear title.** Land conveyed shall have clear title, physical and legal access, and be free of any liens.
 - f. **Onsite Infrastructure.** Land conveyed shall be fully ready for development and ready for construction, with roads, water supply, sewage disposal, telephone, electricity and gas (if available), and other basic services in place to the property line of the land, as applicable. If this cannot be demonstrated, the applicant shall post a bond in accordance with Section 8.2.11, to complete the improvements. (In no event shall the bonded improvements be completed more than one year after the date of conveyance of the land to the **Town/County**.)
 - g. **Suitability.** Where there is concern about the suitability of soils or other site conditions to support affordable workforce housing, a soils report and/or other reports shall be prepared by an engineer or other consultant deemed qualified by the **Town Council/Board of County Commissioners**, at the applicant's expense, stipulating the land is suitable for the type of construction contemplated, stating any special construction techniques necessary for its development.
 - h. **Use of conveyed land.**
 - i. Land conveyed shall be used for the development of affordable workforce housing units, and when accepted by the **Town Council/Board of Teton County Commissioners** shall be conveyed to the Jackson/Teton County Housing Authority for that purpose.
 - ii. Where it is determined by the Board of County Commissioners and Town Council that the goals of providing affordable workforce housing will be better met through sale of the conveyed land, the conveyed land may be sold by the Jackson/Teton County Housing Authority.
 - iii. Proceeds from the sale of conveyed land shall be placed in the interest-bearing Affordable Workforce Housing Account. Proceeds from the sale of conveyed land, and any interest accrued from the sale, shall be used for development of affordable workforce housing that meets the standards of this Division, within a reasonable period of time after deposit into the account.
- 3. Banked units.**
- a. **Banking of a unit.** A voluntarily restricted affordable workforce housing unit may be banked if it complies with the following standards.
 - i. The voluntarily restricted unit shall not be tied to any requirement in these LDRs.
 - ii. The deed restriction shall be approved by the Housing Department.
 - iii. The deed restriction shall identify the unit as a banked unit and require re-recording of the restriction to associate the unit with the *employee generating development* that utilizes the banked unit.
 - iv. The unit shall be banked for a maximum of 20 years.
 - b. **Utilization of a banked unit.** Utilization of a banked unit to fulfill an affordable workforce housing requirement shall comply with the following.

6.3.5 Method for Providing Required Affordable Workforce Housing

- i. The banked unit shall have a deed restriction that complies with Section 6.3.4. (The deed restriction on a banked unit may be amended, if approved by the Housing Department, to meet this requirement.)
 - ii. Prior to approval of the development plan, use permit, or building permit for the *employee generating development*, whichever comes first, the deed restriction on the banked unit shall be re-recorded to reference the *employee generating development* it is mitigating. At the same time, the Housing Mitigation Agreement identifying use of the banked unit shall be recorded against the property of the *employee generating development*.
4. **Restriction of an existing unit.** Restriction of an existing residential unit as an affordable workforce housing unit shall comply with the following standards.
 - a. **Age and Condition.** The unit shall be less than 15 years old and shall have been maintained to the standards required by the Rules and Regulations.
 - b. **Timing.** A restriction approved by the Housing Department shall be placed on the existing unit prior to the granting of the applicable certificate of occupancy, use permit, or subdivision plat for the *employee generating development*.
5. **Payment of an in-lieu fee.** Payment of a fee in-lieu for affordable workforce housing shall comply with the following standards.
 - a. **Amount.** The amount of the in-lieu fee shall be proportionate to the need created by the development as established in Sec. 6.3.3 based on the *Teton County and Town of Jackson Employee Generation Land Use Study* (August 22, 2013), as amended. The in-lieu fee amounts shall vary by affordability restriction and number of bedrooms. The current in-lieu fee amounts are included in the Administrative Manual.⁶
 - b. **Fractional amount.** If a fraction of an affordable workforce housing unit is required, the same fraction of the in-lieu fee amount shall be required.
 - c. **Update.** The **Town Council/Board of Teton County Commissioners** shall update the fee in-lieu amount annually, by Resolution, based on the cost of developing the required affordable workforce housing and the resale value of the required workforce housing.
 - i. The cost of development shall be provided by the Housing Director based on recent past development.
 - ii. Unit sizes shall be assumed to be

⁶ For example: the FY18 fee in-lieu amounts would be: (FY 19 amounts will be calculated when HUD data becomes available in April)

Required In-Lieu Fee per Unit by Unit Size and Income Limit ⁶			
	1 Bedroom/Studio	2 Bedroom	3 Bedroom
50% of Median Income	\$ 191,250	\$ 286,200	\$ 381,262
80% of Median Income	\$ 143,250	\$ 231,300	\$ 319,537
120% of Median Income	\$ 50,130	\$ 124,794	\$ 199,791
200% of Median Income	\$ 0	\$ 0	\$ 35,355

- 1). 1 Bedroom/Studio: 750 sf
 - 2). 2 Bedroom: 1,050 sf
 - 3). 3 Bedroom: 1,350 sf
- iii. The maximum sales and rental prices shall be as established by the Housing Department annually pursuant to the Rules and Regulations.
 - iv. The capitalization rate for rental units shall be assumed to be eight percent (8%).
- d. **Timing.** The in-lieu fee shall be paid prior to the granting of the applicable certificate of occupancy, use permit, or subdivision plat for the *employee generating development*, whichever occurs first.
 - e. **Payment.** In-lieu fees collected shall be immediately deposited into the interest-bearing Affordable Workforce Housing Account.
 - f. **Use of Fees.** In-lieu fees, and any interest accrued from in-lieu fees, shall be used for the development of affordable workforce housing that meets the standards of this Division.
 - g. **Refund of in-lieu fees.**
 - i. **Seven year limit.** In-lieu fees shall be refunded upon written request by the current owner of the development for which in-lieu fees are paid, if the fees are not expended within seven years from the date the fees are paid.
 - a). Notwithstanding this provision, if the **Town Council/Board of Teton County Commissioners** earmarks the fees for expenditure on a specific affordable workforce housing project, then the **Town Council/Board of Teton County Commissioners** may extend the time period by up to three additional years.
 - b). In-lieu fee payments shall be deemed expended on the basis that the first payment in shall be the first payment out.
 - c). The written request shall be submitted to the Planning Director within one year from the end of the seventh year, or one year from the end of the extended refund time period.
 - ii. **Expired approval or permit.** An in-lieu fee required for an *employee generating development* for which approval has expired shall be refunded upon a written request from the current owner of the property for which the fee was paid. Such request shall be submitted to the Planning Director within three months of the date of the expiration.
 - iii. **Written request.** In all instances where a refund of an in-lieu fee is available, the current owner must submit proof of ownership of the property and proof of payment of the in-lieu fee.

6.3.6. Housing Mitigation Plan and Housing Mitigation Agreement

A. Housing Mitigation Plan

An application for physical development, use, development option, or subdivision shall demonstrate compliance with, or exemption from, this Division through a Housing Mitigation Plan.

1. **Part of application.** The Housing Mitigation Plan shall be a required component of a sufficient application for physical development, use, development option, or subdivision.
2. **Review and decision.** The decision maker on the application, for which the Housing Mitigation Plan is a part, shall review and make a decision on the Housing Mitigation Plan as part of the review of the application, except that only the **Town Council/Board of Teton County Commissioners** can accept a proposal to convey land.
3. **Contents of Mitigation Plan.** The Housing Mitigation Plan shall be in the form of the Housing Mitigation Plan template provided in the Administrative Manual and include the following.
 - a. **Applicability.** A statement that the requirements of this Division apply, or the proposed *employee generating development* is exempt from this Division in accordance with Sec. 6.3.2, along with an explanation why.
 - b. **Calculation of Requirement.** Calculation of the amount of required affordable workforce housing created by the *employee generating development* in accordance with Sec. 6.3.3.
 - c. **Tabulation of unit types.** Demonstration how the unit types required by Sec. 6.3.4 will be provided.
 - d. **Proposed method of provision.** The method (or combination of methods) by which affordable workforce housing is to be provided in accordance with Sec. 6.3.5. The method of provision proposed shall include the following, as applicable.
 - i. Findings to justify that higher priority methods are impracticable (e.g., construction of affordable workforce housing units, on-site or off-set) if they are not used.
 - ii. Location of the proposed units, if applicable.
 - iii. The time by which the units or another method of mitigation will be provided.
 - iv. A completed Housing Department Deed Restriction Worksheet for each unit.
 - v. Demonstration of compliance with the standards of Subsection 6.3.5.D. for the specific method proposed.
 - vi. In the case of construction of units, the application number for the permit to construct the units.
 - vii. In the case of a conveyance of land:
 - a). A topographic and boundary survey of the land to be conveyed.
 - b). An analysis of the residential development allowed on the land by the current zoning.
 - c). Evidence that on-site infrastructure needed for development is on the site, or will be timely provided by the person conveying the land.
 - d). A title report on the land demonstrating clear title, physical and legal access, any liens, easements, and other information necessary to fully describe the legal status of the land to be conveyed.
 - e). An appraisal of the fair market value of the land.

- f). Any additional information or studies determined by the Planning Director to be necessary to demonstrate compliance with Subsection 6.3.5.D.2.
- viii. In the case of restriction of an existing unit, the certificate of occupancy for the unit, and an inspection of the maintenance of the unit to the standards of the Rules and Regulations shall be completed by a qualified professional inspector.
- ix. In the case of payment of an in-lieu fee, calculation of the in-lieu fee amount.

B. Housing Mitigation Agreement

As a condition of approval of the *employee generating development*, the owner of the property on which the *employee generating development* is proposed shall enter into a Housing Mitigation Agreement with the **Town/County**. The Housing Mitigation Agreement shall include: the approved Housing Mitigation Plan; all terms and conditions of the approval of the Housing Mitigation Plan; all applicable deed restrictions; and any other provisions the decision-maker or the Housing Department deems relevant.

1. In signing the agreement, the applicant agrees to comply with the terms and conditions of the approved Housing Mitigation Plan and the Housing Mitigation Agreement.
2. The Housing Mitigation Agreement shall be recorded against the property of the *employee generating development*.
3. The Housing Mitigation Agreement shall be in a form acceptable by the **Town/County** Attorney.
4. The Housing Mitigation Agreement shall be amended only in accordance with its original approval.

Additional Standards Outside of Division 6.3

References to concurrent updates

These affordable workforce housing standards are proposed concurrently with updates to zoning in Town and the Housing Department Rules and Regulations. All references in this draft are intended to reference the draft zoning and draft Rules and Regulations.

Zoning Update materials can be found at: <https://www.engage2017.jacksontetonplan.com/townzoning>

Rules and Regulations Update materials can be found at:
<https://www.engage2017.jacksontetonplan.com/housingrulesandregulations>

References throughout the rest of the LDRs

Throughout the LDRs there are references to Divisions 7.4 and 6.3. All of those references will be updated as applicable. A redline of all changes will be available April 11, 2018.

Definitions to be added

Affordable workforce housing unit: A detached single-family unit, attached single-family unit, or apartment unit that is deed restricted in accordance with Sec. 6.3.4 for the purpose of providing for sale or rental housing that is affordable to those members of the workforce in the Jackson Hole community whose incomes are less than 200% of the median income.

Banked unit: A residential unit, on which a deed restriction approved by the Housing Department has been voluntarily been place, which may be utilized within 20-years of placement of the restriction as required housing for employee generating development.

Employee generating development: New physical development, use, development option, or subdivision not currently in existence, unless exempted in accordance with Sec. 6.3.2.B.

Local occupancy: Residential units subject to an occupancy restriction as defined in the Housing Department Rules and Regulations.

Non-local tenancy: Residential units not subject to an occupancy restriction as defined in the Housing Department Rules and Regulations