

**AMENDED AND RESTATED
RULES and REGULATIONS
for
HIGH DENSITY HOUSING OVERLAY
DEVELOPMENTS
*Effective November 16, 2021***

WHEREAS, the legislative body of Grand County has approved the application of the High Density Housing Overlay (“HDHO”) to those HDHO developments approved pursuant to Grand County Ordinance No. 591 (2019) as codified in the Grand County Land Use Code (“LUC”) in Section 4.7;

WHEREAS, Grand County created the HDHO to provide decent, safe and affordable housing in Grand County, Utah for local residents contributing to the workforce;

WHEREAS, as a condition of approval and subject to LUC Section 4.7.6(B), HDHO Lots and Units are deed restricted for Primary Residential Housing for Actively Employed Households in perpetuity;

WHEREAS, Grand County has delegated management of the HDHO program to the Housing Authority of Southeastern Utah (“HASU”), a non-profit organization incorporated in 1994 to administer affordable housing programs for Grand County and San Juan County (as used herein, Grand County shall include its designee, HASU);

WHEREAS, the Grand County Commission adopted Rules and Regulations for High Density Housing Overlay Developments on March 2, 2021 to implement LUC Section 4.7, help guide HASU when approving HDHO applications, and build local confidence in administration of the HDHO program (the “Rules and Regulations”);

WHEREAS, as a result of administrative appeals filed by HDHO Developers in response to the County’s adoption of the Rules and Regulations, the County’s Hearing Officer struck down two provisions of the Rules and Regulations, which subsections are deleted herefrom; and

WHEREAS, Grand County wishes to amend the Rules to expressly allow for financial institutions providing financing for an HDHO development to exercise any rights related to foreclosure and enforcement of remedies under the applicable financing documents.

SECTION 1. PURPOSE

A. Rules and Regulations. These Rules and Regulations shall provide instructions and guidance to the County and HASU when applying the provisions of LUC Section 4.7 to HDHO Developments. All terms shall have the meaning assigned them in LUC Section 4.7.

B. Qualified Ownership Required. LUC Section 4.7, and specifically 4.7.11, requires all HDHO Lots and Units to be sold to Households who qualify thereunder. Temporary lapses in local employment or leaves of absence shall be addressed pursuant to the provisions in Section 3 below.

C. Purpose. Subject to LUC Section 4.7 and these Rules and Regulations, the purpose of the HDHO is to facilitate housing for local residents working in Grand County who maintain their primary residence in Grand County. These Rules and Regulations shall be applied to HDHO Developments in a manner which supports this purpose.

SECTION 2. QUALIFIED HOUSEHOLD

A. Qualified Household. The ownership, use, and occupancy of HDHO Lots and Units shall be limited to qualified Actively Employed Households (herein “Qualified Household”), as set forth in LUC Section 4.7 and herein.

1. *Household, defined.* The definition of Actively Employed Households shall not be construed to prohibit a familial financial partner who co-signs a loan with an adult who meets the criteria set forth in LUC Section 4.7.3.

2. *Continuing Obligation.* Once an Owner is approved as a Qualified Household, as required by LUC Section 4.7.11, the occupants of the HDHO Lot or Unit shall satisfy the definition of a Qualified Household at all times as required by LUC Section 4.7 and these Rules and Regulations.

3. *Duty of Notification.* Each Owner and renter shall notify the County prior to any change in ownership and occupancy of their HDHO Lot or Unit, which change shall be pre-approved by the County pursuant to Section 3 herein. Any failure to pre-qualify a new owner or occupant shall be the sole liability of the owner or renter.

4. *Ownership by Grand County.* Grand County may purchase and own the HDHO Lot and/or Unit.

5. *Foreclosure Exemption.* A sale prohibited by LUC Section 4.7.11(a) does not include a foreclosure sale or related foreclosure process initiated by a financial institution authorized and regulated under the laws of this state, another state, or the United States (“Financial Institution”), specifically including with limitation acquisition of real property by a Financial Institution via: a) redemption in a trustee sale conducted in accordance with Utah Code §§ 57-1-23 through 57-1-32, b) judicial foreclosure, or c) a deed in lieu of foreclosure (any of the foregoing, a “Foreclosure Sale”). Accordingly, a Financial Institution that obtains title to an HDHO Lot or Unit by Foreclosure Sale need not be a Qualified Household or Actively Employed Household; provided, however, that: 1) if a Financial Institution obtains title to an HDHO Lot and/or Unit, the occupancy of the HDHO Lot and/or Unit shall be limited to Qualified Households, and any subsequent sale of the HDHO Property shall be in accordance with LUC Section 4.7 and these Rules and Regulations; and 2) any other person or entity that

obtains title to an HDHO Lot or Unit by Foreclosure Sale shall be a Qualified Household under LUC Section 4.7.3 and shall within thirty (30) days following acquisition of an HDHO Lot and/or Unit submit evidence to HASU demonstrating that it is a Qualified Household or is leasing the HDHO Property to a Qualified Household. This exemption shall not apply to private lenders that are not subject to the jurisdiction of Title 7, Utah Code (Financial Institutions Act) or other similar state or federal laws.

SECTION 3. APPLICATION PROCEDURE

A. Application Required. Each Owner and renter of an HDHO Lot or Unit shall apply for approval as a Qualified Household on written applications, kept on file with HASU, at least thirty (30) days prior to sale or lease of an HDHO Lot or Unit.

B. Application Approval. Once HASU determines eligibility, it shall provide written acknowledgement of the same.

C. Notifications Required. Each Owner and renter shall notify HASU prior to any change in ownership or occupancy of their HDHO Lot or Unit or their employment status, which change shall be pre-approved by HASU.

1. *Lapses of Employment.*

i. Temporary lapses of employment of three (3) months or less do not require notification to HASU and shall not affect an owner or renter's status as a Qualified Household.

ii. Lapses of employment lasting more than three (3) months shall be reported to HASU by the owner or renter and require HASU approval to ensure continuing eligibility of the occupant.

2. *Leaves of Absence.*

i. Temporary leaves of absence of three (3) months or less do not require notification to HASU and shall not affect an owner or renter's status as a Qualified Household.

ii. Extraordinary leaves of absence for specialized education, care-giving of a family member, religious or charitable work, or military service, lasting not more than two (2) years, where the owner or renter can demonstrate a commitment to returning to Grand County and otherwise complying with LUC Section 4.7.3(M), may be granted by HASU in advance. In the event of approval, the owner may rent the HDHO Lot or Unit to a Qualified Household during the extraordinary leave of absence.

D. Renewal. HASU will contact each owner and renter on an annual basis to re-qualify the Household. Each owner and renter shall submit a written affidavit that attests to their

qualifications and any additional requested documentation required by HASU that proves the same.

E. Denials or Revocation. HASU may deny an Application or revoke a prior determination of eligibility if the occupant does not continue to qualify as a Qualified Householder under LUC Section 4.7.3 and these Rules and Regulations. If HASU denies or revokes an Application or prior determination of eligibility, that determination shall be referred to the Grand County Planning and Zoning Director for Final Decision.

F. Change in Eligibility. Once an Owner is approved as a Qualified Household, a change in the owner's eligibility status shall not constitute a violation hereunder for the period of time the owner continues to own the HDHO Lot or Unit so long as the occupant continues to qualify as a Qualified Household.

G. Financial Institution Exception. If a Financial Institution acquires any HDHO Lot and/or Unit in accordance with Section 2(A)(5), it is exempt from the following requirements of this Section 3:

1. Notifying HASU prior to a change in ownership;
2. Obtaining any approval from HASU for a change in ownership; and
3. Submitting an annual written affidavit attesting to qualification.

SECTION 4. SALE OF UNITS

A. Sale of Units, generally. An owner may sell an HDHO Lot or Unit For Sale By Owner or with a licensed Utah realtor. If an HDHO Lot or Unit is occupied during the Listing Period, the occupant must be a Qualified Household.

B. Notification upon Listing. The owner shall notify the County when an HDHO Lot or Unit is listed for sale, when it goes under contract, and when it sells for the purposes of qualifying the potential new owner.

C. Prequalification of Owners. It is advisable for potential buyers of HDHO Lots and Units to request pre-approval as a Qualified Household pursuant to Section 3 above while a sale is pending, at least thirty (30) days and preferably sixty (60) days before closing.

D. Foreclosure Exception. Notwithstanding the requirements of this Section 4, the notification and prequalification requirements of this section shall not apply to Foreclosure Sales as defined in Section 2(A)(5) above.

SECTION 5. APPEAL AND ENFORCEMENT

A. Conflict. In the event of conflict between these Rules and Regulations and LUC Section 4.7, LUC Section 4.7 shall control.

- B. Appeal. A person adversely affected by a denial or revocation of the Grand County Planning and Zoning Director may appeal such Final Decision within thirty (30) days of the County's written decision pursuant to the process set forth in Chapter 1.16 of Grand County's General Ordinances.
- C. Violation, Defined. Any default under LUC Section 4.7, the Deed Restrictions recorded against the HDHO Development, or these Rules and Regulations, including fraud or misrepresentation by an Owner of an HDHO Lot or Unit, shall constitute a violation of County Ordinance.
- D. Investigation and Enforcement. Grand County shall oversee enforcement of LUC Section 4.7 and these Rules and Regulations. Possible violations of the same shall be investigated and enforced under Chapter 1.16 of the General Grand County Ordinances.
- E. Grand County Remedies. An Owner shall cure a Violation or shall sell the HDHO Lot or Unit to a Qualified Household.

ADOPTED by the Grand County Commission on November 16, 2021 in open session of a public meeting.

GRAND COUNTY COMMISSION

Mary McGann

Mary McGann, Chair

ATTEST:

QH

Quinn Hall, Clerk/Auditor