AGENDA

CITY COUNCIL REGULAR MEETING

Continuation of June 28th, 2022 Meeting

June 30, 2022

2:00 PM, City Council Chambers
427 Rio Grande Place, Aspen

ZOOM MEETING INSTRUCTIONS

Join from a PC, Mac, iPad, iPhone or Android device:
Please click this URL to join.
https://zoom.us/j/97096489921?pwd=bFRxNUxRcFBmTWFBdRVUGxGaitYQT09
Passcode: 81611

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US: +1 346 248 7799
Webinar ID: 970 9648 9921
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International numbers available: https://zoom.us/u/aeh048xOjA

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC HEARINGS

III.A. Ordinance #13, Series of 2022 - Residential Building - Response to Moratorium
(Continued from June 28th, 2022)

III.B. Ordinance #14, Series of 2022 - Annual Update to Affordable Housing Fee-in-Lieu
(Note: Memo and Exhibit are included with Ordinance #13, Series of 2022)
(Continued from June 28th, 2022)

IV. ADJOURNMENT
MEMORANDUM

TO: Mayor Torre and Aspen City Council
FROM: Ben Anderson, Principal Planner
       Garrett Larimer, Senior Planner
THROUGH: Phillip Supino, Community Development Director
MEMO DATE: June 20, 2022
MEETING DATE: June 28, 2022
RE: Second Reading, Proposed Amendments to the Land Use Code: Ordinance #13, Series of 2022 – Residential Building (Moratorium) Ordinance #14, Series of 2022 – Affordable Housing Fee-in-Lieu Annual Update

REQUEST OF COUNCIL:
Staff requests City Council review and approve the proposed ordinances at Second Reading.

Ordinance #13, Series of 2022 is the response to the moratorium declared in Ordinance #6, Series of 2022 and contains proposed amendments to several sections of the Land Use Code (LUC). Ordinance #14 proposes an annual update to the Affordable Housing Fee-in-Lieu pursuant to Land Use Code section 26.470.050.E.

SUMMARY AND BACKGROUND:
The moratorium and the response by Council, staff, our consultant team and the community has been an intense and compressed 7-month experience. Staff and our consultant team have completed significant work in evaluating the concerns raised by the moratorium and in identifying the most appropriate and effective tools that we have at our disposal in the Land Use Code. Many members of the community have actively participated in open houses, focus group discussions, and on-line survey and commentary. The outcomes of this work and combined efforts are directly translated into the proposed Ordinance No. 13, Series of 2022.

Attached as exhibits are a few of staff’s previous memos that show the progression of the ideas and responses to the issues raised by Ordinance No. 6. This memo for Second Reading will not go into the same level of detail on specific code change proposals as previous discussions but will instead attempt to frame the proposed response within the goals and outcomes that were expressed in Ordinance No. 6, Series of 2022.
In the first discussion (and staff memo) in a Work Session with Council following the declaration of the moratorium on January 11, 2022, staff provided the following as a summary of what we heard Council identify as the concerns and objectives in the residential building context that resulted in the moratorium:

**The pace and scale of free-market residential development and redevelopment.**

This basic statement captures a robust range of community and Council concerns:

- Aspen’s Growth Management Quota System does not capture or mitigate the impacts of current trends in the real estate and development context.

- The cumulative impacts inherent in the demolition and redevelopment of large single family and duplex residential properties is inconsistent with Aspen’s on-going leadership in responding to the global climate crisis. Council has expressed desire to find solutions in reducing the cumulative energy demands and CO₂ emissions resulting from our built environment.

- The mass and scale of homes built in response to current trends in single-family and duplex development are inconsistent with established community values expressed in the AACP.

- The scale, complexity, and concentration of residential construction projects creates an undue burden on neighbors who must tolerate construction noise, parking constraints, and other negative impacts of development that can take years to complete from start to finish.

- The scale, complexity, and concentration of residential construction projects creates undue burdens on community infrastructure including roads and bridges, parking, and public utilities, as well as environmental infrastructure like solid waste management systems, air quality, and water quality.

**Affordable Housing Production.**

In Council’s continuous exploration of opportunities to produce more affordable housing units in meeting the demands of our workforce, community, and economy, the following questions were asked:

- Are there opportunities in the Land Use Code to make the development of affordable housing less difficult and more predictable for both public and private sector projects?

- Are there additional incentives that could be provided to encourage more private sector development?

- Are there strategies in the Land Use Code and financial tools that could encourage the onboarding of new affordable housing units that are “development neutral”? The idea of development neutral affordable housing broadly means that both in the funding and creation of the additional AH units that we need, that we avoid new physical development that the community does not desire.
Development Procedures within the Land Use Code

This Council and previous Councils have expressed concerns about our development review process and have asked the following questions:

- Are there ways to make the review process more efficient and predictable while still protecting the intent and integrity of a specific review?

- Are there ways to reduce the loopholes in processes that can lead to undesirable development outcomes, particularly in the residential sector?

- Can we ensure that review boards are granting approvals that align with the intent and letter of the Land Use Code?

- How can development review processes be designed to make easier the types of development identified in the AACP as being necessary for the maintenance of community character and sustainability? Conversely, what processes can be designed to ensure that other development types cover their costs and impacts to the community while supporting public goods and infrastructure?

The objectives and desires described above were expansive and ambitious. Staff and the consultant team worked over the last several months to narrow the proposed response into solutions that were manageable under the time and other constraints imposed by the moratorium. We listened to the community, analyzed other communities and Aspen’s specific context, and looked to the LUC for the tools that would be most effective in responding to the stated concerns and desired outcomes.

The proposed policy and regulatory responses are composed of targeted and strategic amendments to the Land Use Code that result in four (4) primary outcomes and a series of changes through the LUC in support:

1) Demolition

The primary policy change is the use of the Growth Management Quota System to limit the number of and provide criteria for the approval of single-family and duplex residential demolition and redevelopment. At the May 23rd Work Session, Council provided direction that six (6) annual allotments for demolition and redevelopment of single family and duplex projects is the desired number.

2) Affordable Housing Mitigation for Residential Development

This policy change continues the work from Ordinance #24, Series of 2021 that is currently tabled. If Ordinance #13 is adopted, it would not be necessary to revisit Ordinance 24 as the changes have been incorporated into the larger response to the moratorium.

The primary proposed change is the inclusion of sub-grade areas and garages in what building area counts toward mitigation, and the removal of the exemption for existing floor area in redevelopment scenarios. These changes are supported by a new Residential
Employee Generation Study, conducted by consultant RRC and Associates, in an update to this document that was last completed in 2015. The final report from the consultant is included in the Second Reading packet as **Exhibit C**. Additionally, the policy change includes improvements to the AH Deferral Agreement in providing more predictability for local residents who would choose to defer mitigation requirements.

3) **100% Affordable Housing Review Process**

This policy proposal would create an administrative review path for 100%, deed-restricted, affordable housing projects that are fully compliant with the requirements of the Land Use Code. Currently, these projects are subject to a review with the Planning and Zoning Commission, even if they are compliant with underlying zone district dimensions, parking requirements, etc. This change would bring a streamlined review and more predictability to both private and public sector AH projects. At the May 23 Work Session, staff identified that projects that involved properties under the review authority of the Historic Preservation Commission presented a challenge. At a special meeting with HPC on June 2nd, a solution to this challenge was proposed by staff and supported unanimously by HPC.

4) **Additional Opportunity for Affordable Housing**

At the May 23rd Work Session, Council provided full support for the proposed changes that include removing any unnecessary obstacles in the development of Affordable Housing across most of Aspen’s zone districts, and in a few specific situations, providing additional opportunity for affordable housing development within the dimensional limitations of the underlying zone districts. A few highlights:

- The ability to develop a 100% affordable triplex or fourplex structures in residential zones that are currently limited to single-family and duplex.
- Giving dimensional flexibility to existing and currently non-conforming multi-family properties in zone districts that preclude multi-family, if those properties were to convert to deed restricted affordable housing.
- Prohibiting the establishment of new, free-market residential units in the Mixed-Use Zone District.

5) **Code Amendments in Support of the Primary Policy Changes**

Several chapters of the LUC are proposed for amendment in support of the policy changes described above. Some of these changes are simply to align processes, while others are necessary to bring clarity and consistency to definitions across the code. A few highlights:

- Providing clarity to definitions surrounding floor area and demolition
- Giving flexibility to existing homes to project into setbacks and above their height to allow for insulation upgrades and changes to exterior materials in the promotion of fire protection.
Community Engagement
In a Work Session on May 9, 2022, staff presented a summary of the public engagement efforts to date. That summary is presented as Exhibit F. Over the course of the moratorium, staff held numerous outreach events and engaged with hundreds of interested stakeholders in-person and on-line. As a consequence of the comments that were received, important changes (both direct and indirect) were made at a high level in the overall policy direction, but also in the small details present in the code. Staff views the inclusion of these well-intentioned and thoughtful comments as essential to improving the final outcomes within the proposed Ordinance #13.

Process & Review Criteria
There are a number of steps prescribed in the LUC for amending the Code. The Residential Building amendments were initiated by City Council in the language of Ordinance #06. The LUC requires approval of a policy resolution to initiate the formal amendment process. That resolution was passed unanimously by Council on March 22, 2022. It includes extensive AACP citations which form the policy basis for the draft amendments developed by staff. The policy resolution is included as Exhibit B.

The LUC further requires that the Planning and Zoning Commission serve as an advisory body for City Council, reviewing and commenting on LUC changes before they are presented to Council. Ordinances #13 and #14 were presented to the Commission on June 7, 2022. Commission members made comments and those comments were presented to Council at First Reading.

When reviewing LUC amendments, there are three review criteria to guide Council's consideration. The following Review Criteria apply to all Amendments to the text of the Land Use Code:

### 26.310.050 Amendments to the Land Use Code Standards of review - Adoption.
In reviewing an application to amend the text of this Title, per Section 26.310.020(B)(3), Step Three – Public Hearing before City Council, the City Council shall consider:

A. Whether the proposed amendment is in conflict with any applicable portions of this Title.

B. Whether the proposed amendment achieves the policy, community goal, or objective cited as reasons for the code amendment or achieves other public policy objectives.

C. Whether the proposed amendment is compatible with the community character of the City and is in harmony with the public interest and the purpose and intent of this Title.

Staff finds that these criteria have been met by the proposed ordinances.

STAFF DISCUSSION:
Included as Exhibit D is the staff memo from the June 14th first reading. That memo describes in detail the contents and effect of Ordinances #13 and #14. Staff has not
reproduced that discussion in this memo, focusing instead on changes to the ordinances since first reading and putting the work on the last seven months into context.

Additionally, the Redline edits showing proposed changes to the current code were included in the packet for First Reading. Exhibit A to this memo for Second Reading only shows the changes that have been made to Ordinance #13 since First Reading.

**Changes to Ordinance #13 since First Reading**

1) Numerous formatting, grammar, word choice, and other minor adjustments. Most of the redline changes that are present in Exhibit A are a consequence of staff and our consultant team’s efforts to proofread, bring clarity to language, and ensure that any of our proposed amendments are not translating into unintended changes within the LUC.

2) The inclusion of a specific review path for affordable housing projects that are also subject to Historic Preservation Review. The general framework was identified at First Reading, but since then, more detail has been provided following input from HPC to guide the process. These changes can be identified in GMQS section 26.470.090.D.

3) The inclusion of an Employee Generation rate of 0.107 FTE / 1000 square feet of single-family, duplex, and multi-family residential development. Staff and Council held significant discussion on this topic at First Reading. This generation rate is the result of RRC’s update to the Employee Generation Study and staff’s recommendation to include 100% of the construction employee generation identified by the study and 25% of the Operations and Maintenance employee generation. This change can be found in several sections in GMQS (26.470).

4) Vertical circulation to be exempted from Mitigation Floor Area. Following comments from P&Z and others in the design community, staff is proposing that vertical circulation (stairs, elevators) not count toward mitigation requirements. This is a technical change that will have very minimal impact – but will make calculation more straightforward.

5) Refinement to Appendix A of the Residential Demolition and Redevelopment Standards. The end goal of these standards is to reduce greenhouse gas emissions. In response to feedback from technical stakeholders, staff is proposing the following adjustments (from First Reading) to the Building Energy Performance requirements:

- **R402.3.6 Maximum Area** (of fenestration - windows and doors) – initially proposed at 20%, staff is proposing this area be limited instead at 30%. This change is resulting from further conversation with technical stakeholders. With this 10% increase, the resulting energy performance will still be on the leading edge of performance expectations but will provide additional design flexibility. The basic idea of this requirement responds to the reality that even the most efficient of window systems is far less insulating than well-designed, solid wall and roof assemblies.
• **R403.9 Snow and Ice Melt Systems** – exterior areas that utilize snow melting systems shall be limited to a maximum of 2,500 square feet per parcel.

Other than these identified changes, Ordinance #13 remains consistent in terms of specific content and general policy direction as presented at First Reading. Ordinance #14 remains unchanged.

**Recent Public Comment and Feedback**
On June 15, 2021, the day following First Reading, staff held a conversation with interested stakeholders to discuss any specific or general concerns with the Ordinances. The meeting was primarily attended by members of the design and real estate communities. Planned for 90 minutes, the conversation lasted more than 2 ½ hours. Staff listened to concerns and provided explanation and clarity to questions and misunderstandings.

The conversation was polite and well-intentioned. While there were statements of support for aspects of the proposed changes, fundamental objections were raised that can be consolidated into two areas:

**Demolition**: Two objections in this area were repeated. First, there were strong opinions that the proposed annual limitations on Demolition and redevelopment will have unintended and negative consequences in the real estate, development, and construction economies. Central to these statements were concerns that the policy will lead to a speculative economy surrounding projects that have or are pursuing a demolition. Also stated repeatedly were sentiments that projects that pursue major remodels short of Demolition are at least as impactful as projects that fully demolish – and that these types of projects will become even more frequent.

Secondly, that if we are going to use the Demolition allotment system – that the number of six (6) is too low. Related to this were concerns about the review criteria for the multi-year allotment and the GMQS appeal process.

**Staff Response**: On the first concern; the dynamics of the Aspen real estate and development context are complex and hyper-local. Staff and the consultant team have done our best to respond to the moratorium and have landed on a set of policies that will translate into improvements to many of the conditions identified in Ordinance #6. However, anytime regulatory responses intervene in an economy as layered and nuanced as Aspen, it is possible that unintended outcomes may result.

Additionally, speculation and value-added transactions are currently and will remain central features of the local real estate market, real estate development industry generally. Properties are listed with land use entitlements and approved building permits. Properties are listed as redevelopment opportunities. This or that feature of a piece of land or structure offers a unique condition that adds value.
Whether the demolition allotment becomes one of these assets will not, in staff’s view, significantly alter the larger dynamics of Aspen’s exceptionally high value real estate economy.

On the second concern, staff believes that the six (6) allotments that resulted from Council’s direction is a reasonable number reflective of the last 10 years of Demolition activity. However, should demand be higher, there is a code identified process to request a multi-year allotment, or to appeal to Council for remedy when there are no additional allotments available in the system.

**Impact to Locals:** There remains strong sentiment from some members of the community that the proposed policies (both Demolition and increased AH mitigation requirements) create further hardship for local residents – particularly for those that own aging single-family and duplex properties that will be ready for some level of redevelopment or remodel in the coming years.

**Staff Response:** Staff has listened to these concerns since the process began related to Ordinance #24 (AH Mitigation). We have also understood clearly from Council direction that any response to these issues should refrain from making conditions more difficult for local residents. Staff has been responsive in improving the predictability of the AH Deferral Agreement and in making the Demolition allotment procedure subject to objective standards, rather than competitive based on subjective standards. Staff has additionally committed to bring a post-moratorium conversation to Council – related to the mitigation requirements for resident locals.

Recent Public Comment received via e-mail is included as *Exhibit I*.

**CONCLUSION AND NEXT STEPS:**
The passage of these Ordinances would be the culmination of nearly 7 months of work by staff, our consultant team, City Council, and the members of the public who participated in our process. There have been difficult conversations filled with both open disagreement and enthusiastic support. It is clear at the conclusion of our efforts in response to the moratorium that Aspen is a complicated place that many people love dearly.

When an action like the declaration of the moratorium is taken, there is often an expectation that the resulting policies and regulations will fix the identified problem and the community can move on. Looking back at a long history of similar actions by Aspen City Council over decades, this is typically not the case. The issues that Aspen is currently struggling with are topics that the community has been wrestling with for decades. Our current efforts should be viewed in this context. Will they improve the situation? Hopefully, yes. Will there be unintended consequences? Perhaps. Will these daunting challenges remain? Unfortunately, likely yes. Will the community have new tools to better respond to these issues? The answer to this is clearly, yes.
What is also certain is that the proposed changes are an earnest and thoughtfully analyzed, strategic set of responses that have been shaped by a robust community conversation. There is not agreement on all of the proposed amendments, but in staff’s view, these changes are an attempt to find a balanced response to the numerous issues raised by Ordinance #6 and the moratorium declaration.

If passed by Council on June 28th, Ordinances #13 and #14 will go into effect prior to the conclusion of the moratorium on August 8th. Additionally, the Ordinances will serve as the basis for related policy and regulatory responses that will likely take a place on the balance of Community Development’s post-moratorium 2022 work plan and beyond.

FINANCIAL IMPACTS: N/A

ENVIRONMENTAL IMPACTS: Strong statements in the AACP related to environmental and climate goals, a legacy of participation in national and international climate agreements, commitments by Aspen’s current and previous City Councils, and the intersection with current concerns about the nature of the residential built environment were at the center of Council’s decision to declare the moratorium. Within the tools available in the Land Use Code, staff has identified development projects that trigger Demolition as a focus of our efforts. If passed, Ordinance #13 will bring a new set of performance standards to these projects and importantly, sets a framework and mechanism for the inclusion of new climate-focused building performance standards as new information and practical solutions continue to emerge.

ALTERNATIVES: Should Council choose not to pass Ordinance #13 or #14 at the 6/28 Second Reading, Council could direct staff to make amendments to the Ordinance(s) and return for another public hearing at a later date. However, it should be emphasized that if Council wishes to further consider either of the Ordinances, a special meeting would be needed to be set prior to 7/8/22 for the Ordinances to take effect during the effective period of the moratorium.

RECOMMENDATIONS: Staff recommends that Council approve Ordinances #13 and #14, Series of 2022, on Second Reading.

CITY MANAGER COMMENTS:

EXHIBITS:
A – Ordinance #13, Series of 2022 – Redline Changes from First Reading
B – Policy Resolution #43, Series of 2022
C – Employee Generation Report, RRC and Associates
D – Staff Memo, First Reading; 6/14/22
E – Staff Memo, Work Session; 5/23/22
F – Community Engagement Summary; 5/9/22
G – Staff Memo, Work Session; 3/14/22
H – Staff Memo, Work Session; 1/11/22
I – Recent Public Comments received via e-mail
J – Public Hearing Notice Affidavit; Ordinance #13
K – Public Hearing Notice Affidavit; Ordinance #14
ORDINANCE #13
SERIES OF 2022


WHEREAS, the City of Aspen (the "City") is a legally and regularly created, established, organized, and existing municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado and the Home Rule Charter for the City (the "Charter"); and,

WHEREAS, the zoning and land use powers conferred upon the City by the State of Colorado as a Home Rule Municipality empower the City to manage land use to ensure the public health, safety, and welfare; and,

WHEREAS, the City of Aspen currently regulates land uses within the City limits in accordance with the Aspen Land Use Code (hereinafter "Land Use Code"), Title 26 of the Aspen Municipal Code, adopted pursuant to its Home Rule Constitutional authority and the Local Government Land Use Control Enabling Act of 1974, as amended, §§29-20-101, et seq. C.R.S; and,

WHEREAS, the character of certain development activities in the City of Aspen is having a negative impact upon the health, peace, safety, and general wellbeing of the residents and visitors of Aspen; and,

WHEREAS, recent land use applications seeking Development Orders in various City Zone Districts do not appear to be consistent with the goals and vision as expressed by the 2012 Aspen Area Community Plan, including:

- We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20); and
- 1.1. Achieve sustainable growth practices to ensure long-term vitality and stability of our community and diverse visitor-based economy. (pg 24); and
- V.1. Encourage a commercial mix that is balanced, diverse and vital and meets the needs of year-round residents and visitors. (pg 26); and
- V.2. Facilitate the sustainability of essential businesses that provide basic community needs. (pg 26); and
- V.3. Ensure that the City Land Use Code results in development that reflects our architectural heritage in terms of site coverage, mass, scale, density and a diversity of heights, in order to:
Create certainty in land development.
Prioritize maintaining our mountain views.
Protect our small-town community character and historical heritage.
Limit consumption of energy and building materials.
Limit the burden on public infrastructure and ongoing public operating costs.
Reduce short- and long-term job generation impacts, such as traffic congestion and demand for affordable housing. (pg 26); and,

WHEREAS, the City of Aspen depends on a lived-in community of year-round locals to support community culture, provide labor and capital to support the local economy, ensure public safety and peace through the presence of first responders, health care and essential service workers in the community, and ensure the long-term viability of the community and tourist economy; and,

WHEREAS, due to unprecedented increases in home prices and a lack of supply over time, the residential real estate market in Aspen no longer delivers meaningful housing for local residents, therefore, the affordable housing system is relied upon to provide the vast majority of housing for locals and workers; and,

WHEREAS, the availability of housing for local workers and residents including first responders, health care workers, and other essential service workers is diminishing, the system for delivering affordable housing is not keeping pace with need, and the housing market in the region and state of Colorado are in crisis; and.

WHEREAS, recent evolutions in the residential real estate market and economy, including new financial dynamics, the proliferation of short-term rentals, have rendered elements of the Land Use Code inadequate to respond to local affordable housing needs; and,

WHEREAS, the current regulatory structure to deliver affordable housing to the community is inadequate to meet the needs of current residents and provide affordable housing to meet the future needs, and to ensure the presences of first responders, health care and essential workers, and an adequate labor force to support the economy; and,

WHEREAS, the Aspen Area Community Plan includes policies directing the City of Aspen to address affordable housing in the community, including:

- VIII.1. Restore public confidence in the development process. (pg 27)
- VIII.2. Create certainty in zoning and the land use process. (pg 27)
- VIII.3. Ensure that the Planned Development process results in tangible, long-term community benefits and does not degrade the built or natural environment through mass and scale that exceeds the Land Use Code standards. (pg 27)
- II.1. The housing inventory should bolster our socioeconomic diversity. (pg 41)
- II.2. Affordable housing should be prepared for the growing number of retiring Aspenites. (pg 41)
- IV.2. All affordable housing must be located within the Urban Growth Boundary. (pg 42)
- IV.3. On-site housing mitigation is preferred. (pg 42)
- IV.5. The design of new affordable housing should optimize density while demonstrating compatibility with the massing, scale, and character of the neighborhood; (pg 42); and,
WHEREAS, a functional residential housing sector is essential to sheltering Aspen's populations, supporting a stable economy, maintaining the health, peace and safety of the City of Aspen for its residents and visitors; and,

WHEREAS, the City of Aspen recognizes that anthropogenic climate change and the impacts to the ecological and economic health of the community constitutes an emergency and a threat to the health and safety of the residents of the City of Aspen and the global community; and,

WHEREAS, the City of Aspen is a signatory to the US Mayors' Climate Protection Agreement, the Chicago Climate Exchange, and the Global Covenant of Mayors for Climate and Energy, and

WHEREAS, the City committed to the Race to Zero campaign, requiring the City to publicly endorse the following principles:

- Recognize the global climate emergency.
- Commit to keeping global heating below the 1.5°C Celsius goal of the Paris Agreement.
- Commit to putting inclusive climate action at the center of all urban decision-making, to create thriving and equitable communities for everyone.
- Invite our partners – political leaders, CEOs, trade unions, investors, and civil society – to join us in recognizing the global climate emergency and help us deliver on science-based action to overcome it; and,

WHEREAS, the City has adopted an Ecological Bill of Rights establishing ten inalienable ecological rights for all, including:

- The right to ensure the efficient use of energy and of natural resources,
- The right to expect from our governments active and consistent enforcement of land use and development regulations; and,

WHEREAS, the Aspen Area Community Plan includes policies directing the City of Aspen to address climate change and environmental stewardship, including:

I.1. By 2020, reduce the carbon footprint of the Aspen Area from 2004 levels by 30% (to 588,612.5 tons CO₂-e). (pg 52)
I.2. All existing development and uses should minimize their greenhouse gas emissions. (pg 52)
I.3. Incentivize alternative forms of transportation to reduce reliance on fossil fuels. (pg 52)
I.4. All new development and uses should minimize their greenhouse gas emissions. (pg 52)
II.3. All existing development and uses should minimize their air pollution emissions. (pg 52)
II.4. All new development and uses should minimize their air pollution emissions. (pg 52)
IV.1. Maximize recycling, implement waste reduction and environmentally responsible purchasing programs, and encourage behavior that moves the Aspen Area toward being a zero-waste community and extends the life of the landfill. (pg 53)
IV.4. Increase the practice of deconstruction and increase the amount of materials that are diverted from the landfill, reused or recycled. (pg 53)
V.4. Require new development and redevelopment to minimize their energy usage and use on-site renewable energies as the site allows. (pg 53)
V.5. Existing development should minimize energy usage and use on-site renewable energies...
as the site allows; (pg 53); and,

WHEREAS, residential development contributes to climate change through transportation required to construct and service residential properties, the energy and impacts inherent in creating and sourcing the materials necessary for residential development, the natural resource consumption required for the operation of residential structures, and the production of solid waste and associated disposal impacts from the construction and operation of residential structures; and,

WHEREAS, the City's current residential development regulations are not sufficiently aligned with its adopted climate and environmental protection policies and regulations, undermining the community's ability to effectively reduce greenhouse gas emissions and avoid the worst effects of climate change; and,

WHEREAS, a pause in certain types of residential development is necessary in order to ensure that residential development supports the City's adopted climate and environmental policies and does not unnecessarily contribute to further climate and environmental impacts; and,

WHEREAS, the processes and procedures described in the Land Use Code, including but not limited to Chapter 26.300 determine how development is reviewed and permitted in the City; and,

WHEREAS, those processes and procedures are designed to balance the right to the use of private real property in the City with community input and preservation of history and character to ensure the orderly use of land within the City limits; and,

WHEREAS, in certain circumstances, those processes and procedures are not delivering the development outcomes described in the AACP or Land Use Code, warranting a pause to certain residential development applications to align those processes and procedures with adopted community policies; and,

WHEREAS, the community has a Growth Management Quota System (GMQS) designed to manage the pace, type, location, and extent of development. That system was developed prior to recent evolutions in Aspen's development environment including the proliferation of private vacation rentals, current trends in development finance and ownership, and the further build-out of Aspen's zone districts. To provide for the ongoing viability of the GMQS system, it is necessary to assess the applicability and effectiveness of GMQS relative to adopted City policies in the context of the pause on residential development established by this ordinance; and,

WHEREAS, the City Council and the Community Development Department require a period of time in which to review all existing land use codes and regulations as they affect land use development in certain Zone Districts within the City of Aspen to ensure that all land use development proceeds in a manner that is consistent with the Aspen Area Community Plan; and,

WHEREAS, the City Council desires that the staff of the Community Development Department conduct a thorough analysis and assessment of the Land Use Code and regulations affecting the development of land within certain Zone Districts of the City of Aspen, with particular attention to zoning, Growth Management Quota System, affordable housing, solid waste, environmental stewardship, climate action, development review procedures, calculations and measurements, and
related regulations to ensure consistency with the Aspen Area Community Plan and Climate Action Plan; and,

WHEREAS, a moratorium through an emergency ordinance on all development applications will enable a reasoned discussion and consideration of desired amendments to the Land Use Code without creating a rush of development applications and the related impacts upon the community; and,

WHEREAS, Ordinance #24, Series of 2021, which proposed changes to the calculation of affordable housing mitigation was tabled by Council and had not been enacted; and,

WHEREAS, in Ordinance #06, Series of 2022, The Aspen City Council by a vote of 5-0 approved a temporary moratorium through June 8, 2022, on the acceptance of any new land use application seeking a development order or notice of approval, and on the acceptance of certain building permit applications for all residential uses in all zone districts within the city; and declaring an emergency; and,

WHEREAS, Policy Resolution #043, Series of 2022, approved by Council on March 22, 2022 during a properly noticed public hearing, provided direction to staff to pursue amendments of the Land Use Code to “support the development of more affordable housing in Aspen” and “Align land use review processes with community development needs, including affordable housing, and the mitigation of the community impacts from free-market development” among other objectives; and,

WHEREAS, in Ordinance #08, Series of 2022, The Aspen City Council, by a vote of 5-0 approved, an extension of the temporary moratorium through August 8, 2022; and,

WHEREAS, in response to Council direction and approval, Community Development staff has engaged a Consultant support team that includes Design Workshop, City Explained, Inc., White and Smith Planning Group, RRC Associates, and Economic and Planning Systems (EPS); and,

WHEREAS, throughout the duration of the moratorium, staff and the consultant team carried out an extensive public engagement effort to inform the public and receive input from stakeholders. A summary of these efforts was presented to Council at a Work Session on May 9, 2022; and,

WHEREAS, in response to Council direction, recommendations from the consultant team, and input from the community, including technical stakeholders, staff has drafted proposed amendments throughout the Land Use Code in support of the Policy Resolution and Council’s desired outcomes of the temporary moratorium as identified in Ordinance #06, Series of 2022; and,

WHEREAS, Community Development staff provided public engagement opportunities, and held discussion with the Planning and Zoning Commission on June 7, 2022 and received recommendations from the Planning and Zoning Commission; and,

WHEREAS, at a regular meeting on June 14, 2022 City Council by an X – X (X-X) vote, approved Ordinance #13, Series of 2022 on First Reading; and,

WHEREAS, at a regular meeting on June 28th, during a properly noticed public hearing, City Council by a X -X (X-X), approved Ordinance #13, Series of 2022 on Second Reading; and,
WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

Section 1:  
The following definitions in Land Use Code Section 26.104.100. Definitions shall be rescinded and readopted as follows:

26.104.100. Definitions.  
As used in this Code, unless the context otherwise requires, the following terms shall be defined as follows:

100% Deed-Restricted Affordable Housing.  Residential projects where all the dwelling units are subject to a recorded deed-restriction with the Aspen Pitkin County Housing Authority (APCHA). The units may be Category units, Resident Occupied (RO) units, or some combination thereof.

Affordable housing. A dwelling unit or units subject to the size, type, rental, sale and occupancy restrictions and guidelines for affordable housing adopted by the City as part of the Affordable Housing Guidelines and Chapter 26.470, Growth Management Quota System.

Deconstruction. The systematic dismantling of a structure in order to maximize the salvage of materials and parts for reuse and recycling. Deconstruction is undertaken as part of the Demolition or Destruction of a building or structure.

Demolition. To raze, disassemble, tear down or destroy forty percent (40%) or more of an existing structure (prior to commencing development) as defined and described in Section 26.580. For the method of determining demolition, see Section 26.580.040, Measurement of demolition. Demolition shall also include the removal of a dwelling unit in a multi-family or mixed-use building, its conversion to nonresidential use, or any action which penetrates demising walls or floors between Multi-Family Housing Units if such action is undertaken to combine the units. (See Section 26.470.100.D, Demolition or Redevelopment of Multi-Family Housing)

Destruction. To remove, disassemble, tear down or destroy portions of a building or structure where the proposed scope does not exceed 40% Demolition as defined by Section 26.580 - Demolition.

Development. The use or alteration of land or land uses and improvements inclusive of, but not limited to: 1) the creation, division, alteration or elimination of lots; or 2) mining, drilling (excepting to obtain soil samples or to conduct tests) or the construction, erection, alteration, Redevelopment, destruction, or Demolition of buildings or structures; or 3) the grading, excavation, clearing of land or the deposit or fill in preparation or anticipation of future development, but excluding landscaping.

Diversion. Any activity, including recycling, source reduction, reuse, deconstruction, or salvaging of materials, which causes materials to be diverted from disposal in landfills and instead puts the material to use as the same or different usable product.
Dwelling, Affordable housing. A dwelling unit or units subject to the size, type, rental, sale and occupancy restrictions and guidelines for affordable housing adopted by the City as part of the Affordable Housing Guidelines and Chapter 26.470, Growth Management Quota System.

Dwelling, Free market. A dwelling unit not subject to the construction, occupancy or other regulations adopted by APCHA, the City, or its housing designee under the City's affordable housing program.

Dwelling, multi-family. A residential structure containing three (3) or more attached or detached Dwelling Units, not including hotels and lodges, but including townhomes, that may include accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. One (1) or more Dwelling Units located within a Mixed-Use building shall also be considered a multi-family dwelling. The term "multi-family dwelling" also includes properties listed on the Aspen Inventory of Historic Landmark Sites and Structures consisting of three (3) or more Residential Dwellings.

Employee housing. The same as Dwelling, Affordable Housing.

Floor area. A general term used to describe the sum total of the gross horizontal areas of each story of the building measured from the exterior walls of the building. Floor Area includes Gross Floor Area, Mitigation Floor Area, Allowable Floor Area (see specific definitions of each type below for additional clarity). Also see, Supplementary Regulations — Section 26.575.020, Calculations and measurements).

**Floor Area, Allowable.** – The total amount of floor area allowed on a property based on the limitations and allowances in the applicable zone district in Title 700 and calculated pursuant to Section 26.575.020.D, Calculations and Measurements.

**Floor Area, Gross.** Gross floor area is the total horizontal area of all floors in a building, and of all floors in any accessory structure on the same lot, measured from the exterior face framing of the exterior walls (See Section 26.575.020.D), or the centerline of a common wall separating two buildings, but excluding unenclosed balconies.

**Floor Area, Mitigation** – The Gross Floor Area of a structure minus exclusions included in Section 26.575.020.D. This floor area measurement is used to assess required affordable housing mitigation for a given project.

**Floor Area, Non-unit space.** The area, considering all inclusions and exclusions, within a lodge, hotel or mixed use building that is commonly shared. (Also see Calculations and Measurements Section 26.575.020.D.14)

**Floor area ratio (FAR).** The total floor area of all structures on a lot divided by the lot area.

**Floor area ratio, external.** The total floor area of all structures compared to the total area of the building site.

**Floor area ratio, internal.** The floor area within a building devoted to a particular use, compared to the total floor area of the building.
**Free market unit.** A dwelling unit not subject to the construction, occupancy or other regulations adopted by the City or its housing designee under the City's affordable housing program.

**Four-plex.** A multifamily housing project consisting of four, attached or detached units.

**Gross floor area.** For the purposes of calculating non-unit space, gross floor area is the total floor area considering all inclusions and exclusions as calculated herein plus gross area of all subgrade levels measured from interior wall to interior wall.

**Non-unit space.** The floor area, considering all inclusions and exclusions as calculated herein, within a lodge, hotel or mixed use building that is commonly shared. (Also see Section 26.575.020—Calculations and Measurements.)

**Reconstruction.** To rebuild an existing structure, or part of a structure *in kind* following destruction.

**Redevelopment.** The replacement, rehabilitation, repurposing, remodel, or addition to pre-existing structures or uses on a parcel where the scope of work exceeds the 40% Demolition (as defined by this title). Redevelopment is distinct from Development in that Development may occur without triggering Demolition, where Redevelopment is only applicable when Demolition has been triggered.

**Residential multi-family housing.** A dwelling unit which has in its history ever housed a working resident and which is located in a building in one of the following configurations:

1) A multi-family residential building, including 3 or more attached or detached dwelling units;

2) A mixed-use building; or

3) A detached building on a property listed on the Aspen Inventory of Historic Landmark Sites and Structures containing three (3) or more detached residential units where permitted by the zone district.

Excluded from this definition shall be single-family and duplex dwellings and dwelling units used exclusively as tourist accommodations by or nonworking residents.

**Salvage.** The controlled removal of items and material from a building, construction, or demolition site for the purpose of on- or off-site reuse, or storage for later reuse. The salvaging of materials is one method of meeting waste diversion requirements.

**Source separated recyclable materials.** The recyclable materials that are separated from other recyclable materials or solid waste and placed in separate containers according to type or category of materials and directly marketed as a single commodity.

**Tri-plex.** A multifamily housing project consisting of three, attached or detached units.

**26.104.110. Use Categories.**

**Residential use.**
Characteristics

A dwelling unit used or intended for use exclusively for dwelling purposes, not including hotels or lodges, which is occupied by a single resident, family or household.

Examples

Residential uses and configurations include the following categories:

1. detached residential dwellings,
2. attached residential dwellings, duplex dwellings,
3. multi-family dwellings, residential multi-family housing, which refers to any of the following configurations: multi-family dwelling unit(s) located in an exclusively residential building, a multi-family dwelling unit(s) located in a mixed-use building, or detached buildings containing three (3) or more detached residential dwellings where permitted by the zone district, and
4. Home occupation: principally residential buildings that includes a business, occupation or trade conducted principally within the dwelling or accessory structure, allowed only as an accessory use, and occupied on a full time basis by a person who is employed by the commercial use. (See also section 26.575.090, Home Occupations.)

In addition, residential uses are further divided into affordable housing and free market units for purposes of the Growth Management Quota System (Chapter 26.470) and the disposition of units by location or floor area in the applicable zone district.

Accessory Uses

Accessory uses may include parking, and garbage, trash and recycling areas consistent with City Code Chapter 12.04.

Accessory uses commonly found include parking of the occupants' vehicles, home occupations, accessory dwelling units, and short-term rentals only where allowed by the applicable zone district, and may be subject to additional regulations.

Exceptions

Uses classified as Hotel (Lodge) uses, bed and breakfast, dormitory, boardinghouse.

Section 2:

Land Use Code Section 26.210.020.B. Director of Community Development Department shall be rescinded and readopted as follows:


B. Jurisdiction, authority and duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Community Development Department Director by other provisions of this Code, the Community Development Department Director shall have the following jurisdiction, authority and duties:
1. To serve as staff to the City Council, to provide such body with planning and technical assistance and to inform such body of all facts and information available with respect to development applications or any other matters brought before it;

2. To serve as staff to the Planning and Zoning Commission, to provide such body with planning and technical assistance and to inform such body of all facts and information available with respect to development applications or any other matters brought before it;

3. To serve as staff to the Historic Preservation Commission, to provide such body with planning and technical assistance, to inform such body of all facts and information available with respect to development applications or any other matters brought before it and to inform such body regarding historic preservation items being heard by other City boards in advance of those hearings;

4. To serve as staff to the Board of Adjustment and other decision-making bodies established by this Title and to inform such bodies of all facts and information available with respect to development applications or any other matters brought before it;

5. To serve as staff to the Administrative Hearing Officer, to provide such officer with planning and technical assistance and to inform such officer of all facts and information available with respect to appeals of decisions made by an administrative official or any other matters brought before it;

6. To render interpretations of this Title or the boundaries of the Official Zone District Map pursuant to Chapter 26.306;

7. To enforce any provision of this Title or any other provision of this Code;

8. To establish such rules of procedure necessary for the administration of the Community Development Department Director's responsibilities;

9. To exempt development within an H, Historic Overlay District in accordance with Chapter 26.415;

10. To approve minor modifications to a development order for development or demolition within an H, Historic Overlay District in accordance with Chapter 26.415;

11. To exempt development in an environmentally sensitive area (ESA) in accordance with Chapter 26.435;

12. To exempt development which is subject to special review in accordance with Chapter 26.430;

13. To make determinations of exemptions from the growth management quota system (GMQS), pursuant to Chapter 26.470;

14. To approve, approve with conditions or deny development subject to GMQS administrative approval in accordance with Chapter 26.470;
15. To approve development subject to subdivision administrative approval in accordance with Chapter 26.480;

16. To approve development subject to Planned Development administrative approval in accordance with Chapter 26.445;

17. To undertake all general comprehensive planning responsibilities;

18. To initiate amendments to the text of this Title or to the Official Zone District Map, pursuant to Chapter 26.310;

19. To administer the land use application fee policy, to bill applicants according to said policy, to take such actions deemed necessary in withholding development orders or issuing stop work orders upon nonpayment of review fees and to waive any fees or portions thereof, upon request according to said policy;

20. To approve, approve with conditions or deny development subject to Chapter 26.520, Accessory Dwelling Units and Carriage Houses;

21. To extinguish a transferable development right in accordance with Chapter 26.535;

22. To issue and extinguish Affordable Housing Certificates in accordance with Chapter 26.540; and

23. To assist and staff all aspects of the Master Planning process in accordance with Chapter 26.311.

24. To approve, approve with conditions, or disapprove an application for Administrative Public Project review, pursuant to Chapter 26.500, and to determine if a private development application is eligible for Public Project Review, pursuant to Section 26.500.040.D.

(Ord. No. 55-2000, §1; Ord. No. 54-2003, §3; Ord. No. 12-2007, §5; Ord. No.31-2012, §3; Ord. No. 36-2013, §7; Ord. No. 46-2015, §4)

Section 3:
Land Use Code Section 26.212.010. Planning and Zoning Commission shall be rescinded and readopted as follows:

In addition to any authority granted the Planning and Zoning Commission (hereinafter "Commission") by state law or the Municipal Code of the City of Aspen, Colorado, the Commission shall have the following powers and duties:

A. To initiate amendments to the text of this Title, pursuant to Chapter 26.310;

B. To review and make recommendations of approval or disapproval of amendments to the text of this Title, pursuant to Chapter 26.310;

C. To initiate amendments to the Official Zone District Map, pursuant to Chapter 26.310;
D. To review and make recommendations of approval, approval with conditions or disapproval to the City Council in regard to amendments of the Official Zone District Map, pursuant to Chapter 26.310;

E. To review and make recommendations of approval, approval with conditions, or disapproval to the City Council on a Planned Development Project Review and to approve, approve with conditions, or deny Planned Development Detailed Review, pursuant to Chapter 26.445 – Planned Development;

F. To review and grant allotments for residential, office, commercial and lodge pursuant to growth management quota system (GMQS), pursuant to Chapter 26.470;

G. To hear, review and recommend approval, approval with conditions or disapproval of a plat for subdivision, pursuant to Chapter 26.480;

H. To hear and approve, approve with conditions or disapprove conditional uses pursuant to Chapter 26.425;

I. To hear and approve, approve with conditions or disapprove development subject to special review, pursuant to Chapter 26.430;

J. To hear and approve, approve with conditions or disapprove development in environmentally sensitive areas (ESA), pursuant to Chapter 26.435;

K. To make its special knowledge and expertise available upon reasonable written request and authorization of the City Council to any official, department, board, commission or agency of the City, County, State or the federal government;

L. To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with this Title;

M. To grant variances, not including variances to allowable FAR or height, from the provisions of this Title when a consolidated application is presented to the Commission for review and approval pursuant to Chapter 26.314;

N. To grant variances from the provisions of this Title when a consolidated application is presented to the Commission for review and approval pursuant to Chapter 26.314;

O. To hear, review and approve variances to the residential design guidelines, pursuant to Chapter 26.410;

P. To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of Chapter 26.410, including appeals of interpretation of the text of the residential design standards. The Commission may only grant relief from the residential design standards. A variance from the residential design standards does not grant an approval to vary other standards of this Chapter that may be provided by another decision-making administrative body; and

Q. To hear, review and approve, approve with conditions or disapprove an application for Public Projects Review, pursuant to Chapter 26.500.
R. To hear, review and approve, approve with conditions or disapprove an application appealing the Community Development Directors determination that Demolition has been triggered pursuant to Chapter 26.580.


Section 4:
Land Use Code Sections 26.312.020.G; 26.312.030.F; and 26.312.070. Non-Conformities shall be rescinded and readopted as follows:

G. Demolition or destruction.

1. Ability to restore. Any nonconforming use located in a structure which is purposefully demolished, pursuant to the definition of Demolition, may not be continued or restored. Any nonconforming use located in a structure undergoing construction, which does not constitute a demolition, has an approved development order, and an approved building permit shall not be considered discontinued.

2. Nonwillful destruction. Any nonconforming use which is demolished or destroyed by an act of nature or through any manner not purposefully accomplished by the owner may be restored as of right, regardless of the extent of demolition or destruction, if a building permit for reconstruction is submitted within twenty-four (24) months of the date of demolition or destruction.


F. Ability to restore.

1. Non-purposeful destruction. Any nonconforming structure that is Demolished, or portion thereof which is destroyed by an act of nature or through any manner not purposefully accomplished by the owner, may be restored as of right if a building permit for reconstruction is submitted within twenty-four (24) months of the date of Demolition or destruction.

2. Purposeful destruction. Any nonconforming structure that is Demolished, or portion thereof, which is purposefully destroyed, may be replaced with a different structure only if the replacement structure is in conformance with the current provisions of this Title or unless replacement of the nonconformity is approved pursuant to the provisions of Chapter 26.430, Special Review. Any structure which is nonconforming in regards to the permitted density of the underlying zone district may maintain that specific nonconformity only if a building permit for the replacement structure is submitted within twelve (12) months of the date of demolition or destruction.

   a. Density Replacement. A duplex or two single-family residences on a substandard parcel in a zone district permitting such use is a nonconforming structure and subject to nonconforming structure replacement provisions. Density on a substandard parcel is permitted
to be maintained but the structure must comply with the dimensional requirements of the Code including single-family floor area requirements.


26.312.070. Affordable Housing.

A. Any existing Non-Conforming structure or use that consists of 100% affordable housing that has a current or proposed APCHA deed restriction shall be exempt from the provisions of this chapter, provided the 100% affordable housing use will be added or remain on the parcel. The addition or existence of another land use type shall require compliance with this chapter.

Section 5:
Land Use Code Section 26.316.020.C. Appeals shall be rescinded and readopted as follows:

26.316.020. Authority.

C. Planning and Zoning Commission. The Planning and Zoning Commission shall have the authority to hear and decide the following appeals:

1. An adverse determination by the Community Development Director on an application for exemption pursuant to the Growth Management Quota System in accordance with Subsection 26.470.060.D. of this Title.

2. An adverse determination by the Community Development Director that a project triggers Demolition pursuant to Section 26.580.

Section 6:
Land Use Code Sections 26.430.030 and 26.430.040.B shall be rescinded and readopted as follows. New Section 26.430.040.K. shall be adopted,

Special review shall apply to all development in the City designated for special review by the following chapters or sections of this Title:

- Dimensional requirements (Chapter 26.710 — Zone Districts)
- Replacement of nonconforming structures (Chapter 26.312)
- Reduction of open space requirements in CC Zone District (Subsection 26.575.030.B)
- Off-street parking requirements (Section 26.515.040)
- Reductions in the dimensions of utility and delivery service area provisions
- Subdivision standards (Section 26.480.050)
- Accessory Dwelling Unit Design Standards (Chapter 26.520)
- Wireless telecommunications facilities and/or equipment (Section 26.575.130)
- Affordable housing unit standards
- Variations to the Residential Demolition and Redevelopment Standards (Section 26.580)


B. Replacement of nonconforming structures. Whenever a structure or portion thereof, which does not conform to the dimensional requirements of the zone district in which the property is located is proposed to be replaced after Demolition or destruction, the following criteria shall be met:

1. The proposed development shall comply with the conditions of Subsection 26.430.040.A above;
2. There exist special characteristics unique to the property which differentiate the property from other properties located in the same zone district;
3. No dimensional variations are increased, and the replacement structure represents the minimum variance that will make possible the reasonable use of the property; and
4. Literal enforcement of the dimensional provisions of the zone district would cause unnecessary hardship upon the owner by prohibiting reasonable use of the property.

K. Demolition – Residential Demolition and Redevelopment Standards (new section)

A project may request variations from the requirements of the Residential Demolition and Redevelopment Standards adopted as part of Chapter 26.580 if the Planning and Zoning Commission makes a determination the project meets the intent of the requirements through an alternative design. The Planning and Zoning Commission shall consider the following review criteria, and a recommendation from the Community Development Department and any referral agencies in determining if a project is eligible for a variation:

1. The project is designed in a manner that meets the intent of the Residential Demolition and Redevelopment Standards.
2. Although specifics design elements are not provided that meet the specific items included in the Residential Demolition and Redevelopment Standards, a design alternative is provided that meets or exceeds the minimum thresholds established in the Residential Demolition and Redevelopment Standards.

Section 7:
Land Use Code Chapter 26.470. Growth Management Quota System shall be rescinded and readopted as follows:

Chapter 26.470
GROWTH MANAGEMENT QUOTA SYSTEM (GMQS)

Sections:
Sec. 26.470.010 Purpose.
Sec. 26.470.030 Applicability and Prohibitions.
Sec. 26.470.040 Allotment Procedures.
Sec. 26.470.050 Calculations.
Sec. 26.470.060 Procedures for Review.
Sec. 26.470.070 Exempt Development.
Sec. 26.470.080 General Review Standards.
Sec. 26.470.090 Administrative applications.
Sec. 26.470.100 Planning and Zoning Commission applications.
Sec. 26.470.110 City Council applications.
Sec. 26.470.120 Yearly Growth Management accounting procedures.
Sec. 26.470.130 Application contents.
Sec. 26.470.140 Reconstruction limitations.
Sec. 26.470.150 Amendment of a growth management development order.
Sec. 26.470.160 Appeals.

26.470.010 Purpose
The purposes of this Chapter are to: (a) implement the goals and policies for the City and the Aspen Area Community Plan; (b) ensure that growth and development occurs in an orderly and efficient manner in the City; (c) ensure sufficient public facilities are present to accommodate growth and development; (d) ensure that growth and development is designed and constructed to maintain the character and ambiance of the City; (e) ensure the presence of an adequate supply of affordable housing, businesses and events that serve the local, permanent community and the area's tourist base; (f) ensure that growth and development does not overextend the community's ability to provide support services, including employee housing, traffic control and parking; and (g) ensure that the resulting employees generated and impacts created by development and redevelopment are mitigated by said development and redevelopment.

A. Growth Management Year. A year period, lasting from January 1 through December 31, which constitutes the time period that each year’s development allotments are available.

B. Development categories. All development falls into one of four land use categories, which are outlined in Table 1. Table 1 establishes the development categories and units of allocation for each category for purposes of administering this Chapter. Sub-Categories 1.A – 1.B are all considered part of the Residential Uses category, and therefore conversion between these two sub-categories does not require change in use review.
C. TABLE 1, Development Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Allocation units</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Residential Uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Residential Free-Market</td>
<td>Dwelling units intended exclusively for residential purposes, not subject to any residency requirements and not including hotels, or lodging. Units may be in the form of single-family, duplex, multi-family or part of a mixed-use structure. (See definitions of Residential use and Dwelling, Sections 26.104.100 and 26.104.110.)</td>
<td>Dwelling units</td>
</tr>
<tr>
<td>i. Single-family and Duplex Demolition</td>
<td>Dwelling units that are demolished and redeveloped pursuant to 26.580 and subject to 26.470.090. These allotments are a subset of the total Residential, Free-Market allotment total. (See definition of Demolition, Section 26.104.100)</td>
<td>Dwelling units</td>
</tr>
<tr>
<td>B. Residential Affordable Housing</td>
<td>Dwelling units intended to house only local working residents that are deed restricted according to the Aspen/Pitkin County Housing Authority Guidelines. Units may be in the form of single-family, duplex, multi-family, dormitory or part of a mixed-use structure. (See definition of Affordable housing, Sections 26.104.100 and 26.104.110.)</td>
<td>Dwelling units</td>
</tr>
<tr>
<td>2. Commercial</td>
<td>Buildings, or portions thereof, supporting office, retail, warehousing, manufacturing, commercial recreation, restaurant/bar or service oriented businesses, including retail and office uses but not including hotel or lodging uses. (See definition of Commercial use, Sections 26.104.100 and 26.104.110.)</td>
<td>Net leasable square feet</td>
</tr>
<tr>
<td>3. Lodging</td>
<td>Buildings, or portions thereof, used to house a transient tourist population on a short-term basis, including lodges, hotels, motels, bed and breakfasts, and timeshare development. (See definition of Hotel, Sections 26.104.100 and 26.104.110.)</td>
<td>Lodging pillows. (Each lodging bedroom shall be considered to be two pillows.)</td>
</tr>
<tr>
<td>4. Essential Public Facilities</td>
<td>Facilities serving essential public purposes used by or for the benefit of the general public and serving the needs of the community. (See definition of Essential public facility, Sections 26.104.100 and 26.104.110.)</td>
<td>Square feet</td>
</tr>
</tbody>
</table>

D. Annual development allotment. Each growth management year's potential growth within the City, applied to each type of land use. This is a unit of measurement applied to each type of land.
use that, if granted, allows the specific development proposal to move forward in the review process. The number of development allotments for each land use is established in Table 2 below. See also Section 26.470.040, Allotment Procedure.

E. Carry-forward allotment. The number of unused and unclaimed growth management allotments for each type of development that the City Council determines should be brought forward, or rolled-over, into the next growth management year. Procedures for carry-forward are established in Section 26.470.120, Yearly Growth Management accounting procedures.

F. Full Time Equivalent (FTE). A unit of measurement standardizing the workloads of employees. In this Chapter, FTEs refer to the number of employees generated or housed by development.

26.470.030 Applicability and Prohibitions.
This Chapter shall apply to all development in the City unless exempted in section 26.470.070, Exempt Development.

A. Number of development applications. No more than one (1) application for growth management allotments on any one (1) parcel shall be considered concurrently. To submit a new application, any active growth management application for the same property must be vacated.

B. Number of growth management allocations. No more than one (1) project shall be entitled to growth management allotments on any one (1) parcel concurrently. In order to entitle a different project on the same parcel, existing growth allotments must be vacated. (Also see Section 26.470.150, Amendment of a growth management development order.)

C. No automatic "resubmission" of growth management applications. Applications shall only be eligible for growth allotments within the growth management session in which they are submitted and shall not automatically become eligible for allotments in future sessions or future years. Applications must be resubmitted in order to be eligible for allotments in the next session or next year, as applicable. Resubmission shall effect a new submission date.

D. Subdivision and other required land use reviews. Projects requiring additional land use reviews, including Conceptual Commercial Design Review, pursuant to Section 26.412, Commercial Design Standards, Conceptual Review by the Historic Preservation Commission, pursuant to Section 26.415, Historic Preservation, Project Review or Detailed Review, pursuant to Section 26.445, Planned Development, and Subdivision, pursuant to Section 26.480, Subdivision, may be reviewed concurrently with review for growth management, pursuant to Paragraph 26.304.060.B.1.

E. No partial approvals. In order for a project to gain approval, sufficient allotments for every element of the project must be obtained. No partial approvals shall be granted. In circumstances where a proposal requires allotments be granted for various types of uses within the project, the reviewing body shall not grant approval unless allotments for every type of use are available. For example: If a proposal requires that allotments be granted for free-market residential units, affordable housing units and commercial space, and there are no remaining allotments for free-market residential for the year, the project shall be tabled until such time as allotments are available. In the above example, the project shall be tabled in total and not granted allotments for the
affordable housing units or the commercial space. Similarly, a project requiring 10,000 sq. ft. of commercial allotments when only 5,000 sq. ft. of commercial allotments remain shall be tabled until such time as allotments are available. Also see multi-year allotments below.

F. Multi-year growth allotments. Projects requiring development allotments in excess of the annual allotment may be granted a multi-year allotment, pursuant to Subsection 26.470.110.A, or may gain allotments over a multi-year period, provided that the allotment gained in any one (1) year shall not exceed the annual allotment.

For example, a project requesting fifty thousand (50,000) square feet of commercial space may request either a one-time, multi-year allotment of fifty thousand (50,000) square feet or may request approval in the first year for twenty-five thousand (25,000) square feet and request approval for the remaining twenty-five thousand (25,000) square feet in a subsequent year through a multi-year allotment.

Gaining allotments in any year shall not guarantee that allotments will be granted in later years for the same project. Projects requiring a multi-year allotment shall not be granted a development order until all elements of the project have been granted allotments. If the design of a project changes prior to receiving the full allotment needed for a development order, the reviewing body shall determine if the changes are acceptable or if the change invalidates the previously granted allotment and requires a resubmission for allotments. Applications for each year's allotment need to be submitted, and there shall be no preferential status given to a project granted partial allotment.

Projects that do not require allotments in excess of the annual allotment shall not be eligible to gain partial allotments. See No partial approvals above.

G. Non-assignability of growth allotments. Development allotments obtained pursuant to this Chapter shall not be assignable or transferable independent of the conveyance of the real property on which the development allotment has been approved.

H. No reduction in mitigation requirements. Notwithstanding Section 26.470.110.D, Essential Public Facilities, an applicant may not request a reduction in the mitigation requirements of this Chapter. Properties requesting historic designation pursuant to Chapter 26.415, Historic Preservation, may be exempt from this provision, provided, however, that any reduction is reviewed and approved by City Council.

I. No combination of multiple affordable housing requirements allowed. Whenever multiple affordable housing mitigation requirements are required each housing requirement shall be met. For example: A mixed-use project may require two (2) affordable housing units to mitigate an increase in commercial employee generation and two (2) affordable housing units to mitigate free-market residential development. In this case, four (4) affordable housing units are required.

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is to “manage future development so that it contributes to the long-term viability of a sustainable, demographically diverse visitor-based economy and a vital year-round community.” To implement these goals, the community has established a two percent (2%) growth rate that can be accommodated without compromising community character. The AACP supports a “critical mass of year-round residents” to be housed while maintaining our community character and way of life. Therefore, the Growth Management Quota System does not limit the annual growth rate of affordable housing, while all other types of development shall be limited to not exceed a two-percent annual growth rate. In order to address continued community growth concerns, a growth limit of one-half percent (0.5%) has been implemented for new free-market residential development and the demolition and replacement of existing free-market residential single-family and duplex dwellings.

B. Existing development. The following tables describe the existing (as of March 2007) amount of development in each sector used as a "baseline" in establishing annual allotments and development ceilings.¹

<table>
<thead>
<tr>
<th>Commercial Development Within the City (square feet)¹</th>
<th>Leasable square feet for class</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial use &quot;class&quot;</strong></td>
<td></td>
</tr>
<tr>
<td>Merchandising</td>
<td>365,486</td>
</tr>
<tr>
<td>Lodging²</td>
<td>19,950</td>
</tr>
<tr>
<td>Offices</td>
<td>113,207</td>
</tr>
<tr>
<td>Recreation</td>
<td>179,824</td>
</tr>
<tr>
<td>Special purpose</td>
<td>144,777</td>
</tr>
<tr>
<td>Warehouse/storage</td>
<td>149,814</td>
</tr>
<tr>
<td>Multi-use</td>
<td>208,331</td>
</tr>
<tr>
<td>Commercial Condos</td>
<td>483,549</td>
</tr>
<tr>
<td><strong>Total commercial:</strong></td>
<td>1,664,938</td>
</tr>
<tr>
<td><strong>2% Annual growth rate for commercial development</strong></td>
<td>33,300</td>
</tr>
</tbody>
</table>

¹ Source: Pitkin County Assessor, March 7, 2005
² Lodge unit square footage removed from total. Commercial space within lodge developments estimated through City records.
### Residential Development Within the City (units)

<table>
<thead>
<tr>
<th>Property type</th>
<th>Residences in class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>1,268</td>
</tr>
<tr>
<td>Duplex or triplex³</td>
<td>79</td>
</tr>
<tr>
<td>Multi-units 4-8⁴</td>
<td>45</td>
</tr>
<tr>
<td>Multi-units 9+</td>
<td>142</td>
</tr>
<tr>
<td>Condominiums</td>
<td>2,978</td>
</tr>
<tr>
<td>Duplex condos</td>
<td>366</td>
</tr>
<tr>
<td>Manufactured</td>
<td>29</td>
</tr>
<tr>
<td>Partial exempt</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total residences:</strong></td>
<td>4,909</td>
</tr>
<tr>
<td>Nonexempt affordable housing units⁵</td>
<td>1,132</td>
</tr>
<tr>
<td><strong>Total free-market residences</strong></td>
<td>3,777</td>
</tr>
<tr>
<td>0.5% Annual growth rate for free-market residential development:</td>
<td>18.9 units</td>
</tr>
</tbody>
</table>

### Lodging Development Within the City (Pillows)

<table>
<thead>
<tr>
<th>Total lodging pillows:</th>
<th>7,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5% Annual growth rate</td>
<td>112.5 pillows</td>
</tr>
</tbody>
</table>

**Annual development allotments.** The Growth Management Quota System establishes annual development allotments available for use by projects during each growth management year. The

---

³ Single ownership duplex and triplex units. 2 units per property ownership estimated.

⁴ Single ownership apartment buildings. Residence count reflects actual number of units recorded with Assessor.

⁵ A total of 1,815 residences within the City are deed-restricted affordable housing. Of these units, several are considered tax-exempt and are not included in the Assessor's counts. These units are rental affordable housing owned by the City, APCHA or tax-exempt nonprofit organizations. Therefore, only the nonexempt units have been subtracted from the Assessor's total residences to determine the number of free-market residences.
Community Development Director shall calculate the development allotments available for each type of land use as follows:

\[
\text{Available development allotments} = \text{annual allotment} + \text{Carry-forward allotment from prior year}
\]

The following annual allotments are hereby established:

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Annual Allotment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential — Total Free-Market</td>
<td>19 units divided as follows:</td>
</tr>
<tr>
<td>New Residential (Subdivision and multi-family units)</td>
<td>13 units</td>
</tr>
<tr>
<td>Single-Family and Duplex Demolition and Redevelopment</td>
<td>6 units*</td>
</tr>
<tr>
<td>Residential — Affordable Housing</td>
<td>No annual limit</td>
</tr>
<tr>
<td>Commercial</td>
<td>33,000 net leasable square feet</td>
</tr>
<tr>
<td>Lodging</td>
<td>112 pillows</td>
</tr>
<tr>
<td>Essential public facility</td>
<td>No annual limit</td>
</tr>
</tbody>
</table>

*Six (6) Demolition and Redevelopment Allotments represent City Council direction related to an annual average of Single Family and Duplex demolition permits issued between 2013 and 2021.

Note, the annual allotment may be reduced if multi-year allotments are granted by the City Council. Upon a denial of the project and the completion of any appeals, where it’s found the denial was appropriate, the project’s allotments shall not be considered granted and shall be returned to the available allotment pool for the remainder of the year. Allotments shall be considered vacated by a property owner upon written notification from the property owner.

C. **Allocation procedure.** Following approval or approval with conditions, pursuant to the above procedures for review, the Community Development Director shall issue a development order pursuant to Section 26.304.080, Development orders. Those applicants having received allotments may proceed to apply for any further development approvals required by this Title or any other regulations of the City.

D. **Expiration of growth management allotments.** Growth management allotments granted pursuant to this Chapter shall expire with the expiration of the development order, pursuant to the terms and limitations of Section 26.304.080, Development Orders. Expired allotments shall not be considered valid, and the applicant shall be required to re-apply for growth management approval. Expired allotments may be added to the next year's available allotments at the discretion of the City Council, pursuant to Subsection 26.470.120.
A. General. Whenever employee housing or fee-in-lieu is required to mitigate for employees generated by a development, there shall be an employee generation analysis of the proposed development. Unless otherwise specified by this Chapter, the employee mitigation requirement shall be based upon the total employee generation of the proposed development. Except as specifically identified for Commercial Redevelopment, there are no credits granted during redevelopment. Additionally, credits are not given for changes between the land use categories outlined in Table 1. For instance, a change in use from commercial net leasable area to free-market residential units does not generate a credit.

B. Employee generation rates.
   1. Non-Residential Uses
   Table 3 establishes the employee generation rates that are the result of the Employee Generation Study, an analysis sponsored by the City during the fall and winter of 2012 considering the actual employment requirements of over one hundred (100) Aspen businesses. This study is available at the Community Development Department. Employee generation is quantified as full-time equivalents (FTEs) per one thousand (1,000) square feet of net leasable space or per lodge bedroom.

<table>
<thead>
<tr>
<th>Zone District</th>
<th>Employees Generated per 1,000 Square Feet of Net Leasable Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Core (CC)</td>
<td>4.7</td>
</tr>
<tr>
<td>Commercial (C-1)</td>
<td></td>
</tr>
<tr>
<td>Neighborhood Commercial (NC)</td>
<td></td>
</tr>
<tr>
<td>Commercial Lodge (CL) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge (L) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge Preservation (LP) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge Overlay (LO) commercial space</td>
<td></td>
</tr>
<tr>
<td>Ski Base (SKI) commercial space</td>
<td></td>
</tr>
<tr>
<td>Mixed-Use (MU)</td>
<td>3.6</td>
</tr>
<tr>
<td>Service Commercial Industrial (S/C/I)</td>
<td>3.9</td>
</tr>
<tr>
<td>Public¹</td>
<td>5.1</td>
</tr>
<tr>
<td>Lodge Preservation (LP) lodge units</td>
<td>0.3 per lodging bedroom</td>
</tr>
<tr>
<td>Lodge (L), Commercial Lodge (CL), Ski Base (SKI) and other zone district lodge units</td>
<td>0.6 per lodging bedroom</td>
</tr>
</tbody>
</table>

¹ For the Public Zone, the study evaluated only office-type public uses, and this number should not be considered typical for other non-office public facilities. Hence, each Essential Public Facility proposal shall be evaluated for actual employee generation.

Each use within a mixed-use building shall require a separate calculation to be added to the total for the project. For commercial net leasable space within basement or upper floors, the rates quoted above shall be reduced by twenty-five percent (25%) for the purpose of calculating total employee generation. This reduction shall not apply to lodge units.
For lodging projects with flexible unit configurations, also known as "lock-off units," each separate "key" or rentable division shall constitute a unit for the purposes of this Section, such that employee generation is assessed on the configuration with the most number of rentable units. Timeshare units and exempt timeshare units are considered lodging projects for the purposes of determining employee generation. Free-market residential units included in a lodge development and which may be rented to the general public as a lodge unit, shall be counted as a lodge key in the calculation of employee generation.

2. Residential Uses. Employee Generation rates for Residential Uses (single-family, duplex and multifamily have been similarly established. Depending on the nature of development, (examples: new construction on an existing lot, creation of a new subdivision, expansion of Floor Area, or Demolition), different methodologies have been established and are identified and defined in 26.470.090 and 26.470.100.

Table 4. Employee Generation Rates for Residential Uses

<table>
<thead>
<tr>
<th>Residential Use</th>
<th>Employees Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>All free-market residential use types</td>
<td>0.107 per 1,000 square feet of Mitigation Floor Area</td>
</tr>
</tbody>
</table>

a. The residential employee generation rates are based on a study of employment generation of Aspen residences, from both initial construction and ongoing operation, performed by RRC Associates of Boulder, Colorado, dated June 17, 2022.

The following methodology (as depicted in a comprehensive report conducted by RRC in Summer of 2022) was used to determine the above employee generation rate:

i. The calculation of construction labor required for building and remodeling residential units. Labor was calculated assuming employees have more than one job (as outlined in the Regional Housing Study completed in 2019 by RRC), and divided over a 40-year career. 100% of the construction employment generation is included in the adopted rate.

ii. The calculation of operational employment for residential units. The adopted rate included 25% of the operational employment generation.

b. The calculation of Mitigation Floor Area for the purposes of determining employee generation and required mitigation shall be based on the definition of “Mitigation Floor Area” in 26.104.100, Definitions, and further discussed in Section 25.575.020.D.

c. For new construction on a vacant lot, all Mitigation Floor Area shall be included in the calculation of employee generation and required mitigation.

d. For redevelopment or renovation of an existing single-family, duplex, or multi-family unit that does not meet the requirements of Demolition (26.580), only new, additional
Mitigation Floor Area shall be calculated towards employee generation and required mitigation, pursuant to Sections 26.470.090.A and B.

e. The calculation of the Employment Generation shall be assessed per dwelling unit. Duplex, triplex, fourplex, or multi-family dwelling units do not combine their Mitigation Floor Area for one calculation.

C. Employee generation review. All essential public facilities shall be reviewed by the Planning and Zoning Commission to determine employee generation, pursuant to Section 26.470.110D. In addition, any applicant who believes the employee generation rate is different than that outlined herein may request an employee generation review with the Planning and Zoning Commission during a duly noticed public hearing, pursuant to Section 26.304.060.E. In establishing employee generation, the Planning and Zoning Commission shall consider the following:

1) The expected employee generation of the use considering the employment generation pattern of the use or of a similar use within the City or a similar resort.

2) Any unique employment characteristics of the operation.

3) The extent to which employees of various uses within a mixed-use building or of a related off-site operation will overlap or serve multiple functions.

4) A proposed restriction requiring full employee generation mitigation upon vacation of the type of business acceptable to the Planning and Zoning Commission.

5) Any proposed follow-up analyses of the project (e.g., an audit) to confirm actual employee generation. The requirements of any proposed follow-up analysis shall be outlined in a Development Agreement, pursuant to Chapter 26.490.

6) For single-family and duplex development and redevelopment, Employee Generation Review shall be only available for projects that can show evidence that mitigation was previously provided using physical units (on-site or off-site) which are currently deed-restricted and house APCHA qualified residents. The Planning and Zoning Commission will compare the mitigation provided at the time of the unit’s deed restriction with the mitigation currently required for redevelopment using FTEs (Full-time Equivalents) as the basis for comparison. P&Z review shall ensure that any previously provided unit remains consistent with the intent of current APCHA regulations and standards and applicable provisions of the Land Use Code.

D. Employees housed. Whenever a project provides residential units on or off site the schedule in Table 5 shall be used to determine the number of employees housed by such units:
Table 5, FTEs Housed

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Employees Housed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>1.25</td>
</tr>
<tr>
<td>One-bedroom</td>
<td>1.75</td>
</tr>
<tr>
<td>Two-bedroom</td>
<td>2.25</td>
</tr>
<tr>
<td>Three-bedroom or larger</td>
<td>3.00, plus .5 per each additional bedroom</td>
</tr>
<tr>
<td>Dormitory</td>
<td>1.00 employee per 150 square feet of net livable space</td>
</tr>
</tbody>
</table>

E. Employee housing fee-in-lieu payment. Whenever a project provides employee housing via a fee-in-lieu payment, in part or in total, the amount of the payment shall be based upon the following (fee-in-lieu is only allowed for Categories 1-4, Category 5 is included for any necessary conversions between affordable housing unit types or for the purpose of conversions in the value of Certificates of Affordable Housing Credits):

Fee-in-Lieu (per FTE):
- Category 1: $408,054
- Category 2: $376,475
- Category 3: $345,691
- Category 4: $302,879
- Category 5: $250,375

Payment shall be calculated on a full-time-equivalent employee (FTE) basis according to the Affordable Housing Category designation required by this Title. Unless otherwise stated in this Title or in a Development Order, Fee-in-Lieu payments shall be collected by the City of Aspen Building Department prior to and as a condition of Building Permit issuance.

The Fee-In-Lieu rates shall be updated every five years and adopted by city council ordinance. This 5-year update shall evaluate and include cost analysis of new private and public sector affordable housing projects that have been completed or are otherwise appropriate since the previous update. During the intermediate years, Community Development staff shall propose to City Council an annual update (in January) to the Fee-in-Lieu schedule via Ordinance, utilizing the most recent National Construction Cost Index provided by the Engineering News Record. If the annual increase is approved, updated Fee-in-Lieu figures shall be rounded to the nearest dollar.

The following methodology (as depicted in a comprehensive report conducted by TischlerBise, Affordable Housing Fee-in-Lieu Study, Phase II in Spring of 2021) was used to determine the above Fee-in-Lieu schedule:

1) Utilizing recent public sector, private sector, and public private partnership affordable housing projects, staff and the consultant team identified actual land and construction (hard and soft) costs for a number of recent projects and land purchases.

2) Costs for both land and construction were analyzed by project to the square foot of net livable development and averaged across the projects. Using the Code determined calculation of 400 square feet per full time equivalent (FTE) employee, a total cost of constructing affordable housing per FTE was identified.
3) Utilizing the Aspen Pitkin County Housing Authority (APCHA) Guidelines, established sales and rental rates by Category and bedroom count were used in a calculation to identify the revenue per FTE. Two important assumptions were included for the rental revenue stream: a) revenue (rental income) was calculated over a 15-year period with a 2% annual increase in the rental rate; and b) rental revenue was reduced by 50% to acknowledge common maintenance and operations costs. Sales and Rental Revenue were then averaged per FTE.

4) The per FTE revenue amount for each Category (identified in #3 above) was subtracted from the total development cost per FTE (identified in #2 above). The remainder of each calculation subtracting the Category revenue from the total cost per FTE results in the Category Fee-in-Lieu schedule above.

F. Employee/square footage conversion. Whenever an affordable housing mitigation requirement is required to be converted between a number-of-employees requirement and a square-footage requirement, regardless of direction, the following conversion factor shall be used:

1 employee = 400 square feet of net livable area.

G. Accessory dwelling units as mitigation units. Accessory dwelling units, approved pursuant to Chapter 26.520 and which are deed-restricted as "for sale" category housing and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority, shall be considered mitigation units and attributed to a project's affordable housing provision, or may be attributable to the creation of Affordable Housing Certificates, subject to the provisions of 26.520 and 26.540. ADUs which are not deed-restricted as category units and are not transferred to qualified purchasers shall not be considered mitigation units and shall not be attributed to a project's affordable housing provision.

A development application for growth management shall be reviewed pursuant to the following procedures and standards and the Common Development Review Procedures set forth at Chapter 26.304. According to the type of allotments requested, the following steps are necessary. A development proposal may fall into multiple categories and therefore have multiple processes and standards to adhere to and meet. An application for growth management may be submitted to the Community Development Director on any date of the year.

A. Administrative Applications. The Community Development Director shall approve, approve with conditions or deny the application, based on the applicable standards of review in Section 26.470.090, Administrative applications.

B. Planning and Zoning Commission Applications. The Planning and Zoning Commission, during a duly noticed public hearing, shall review a recommendation from the Community Development Director and shall approve, approve with conditions, or deny the application, based on the standards of review in Section 26.470.100, Planning and Zoning Commission Applications, and Section 26.470.080, General Review Standards. This requires a one-step process as follows:
Step One – Public Hearing before the Planning and Zoning Commission or Historic Preservation Commission.

1) **Purpose:** To determine if the application meets the standards for approval.

2) **Process:** The Planning and Zoning Commission or Historic Preservation Commission shall approve, approve with conditions, or deny an application after considering the recommendation of the Community Development Director and comments and testimony from the public at a duly noticed public hearing. The Historic Preservation Commission shall be the recommending body for historic landmarks, properties requesting landmark designation, and all properties located within a Historic District.

3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.100, Planning and Zoning Commission applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** The Commission’s decision shall be by resolution.

5) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3 and the provisions of Section 26.304.035 – Neighborhood Outreach as applicable.

C. City Council Applications. City Council, during a duly noticed public hearing, shall review a recommendation from the Community Development Director, a recommendation from the Planning and Zoning Commission or Historic Preservation Commission, as applicable, and shall approve, approve with conditions, or deny the application, based on the standards of review in Section 26.470.110, City Council Applications, and Section 26.470.080, General Review Standards. This requires a two-step process as follows:

Step One – Public Hearing before the Planning and Zoning Commission or Historic Preservation Commission.

1) **Purpose:** To determine if the application meets the standards for approval.

2) **Process:** The Planning and Zoning Commission or Historic Preservation Commission shall forward a recommendation of approval, approval with conditions, or denial to City Council after considering the recommendation of the Community Development Director and comments and testimony from the public at a duly noticed public hearing. The Historic Preservation Commission shall be the recommending body for historic landmarks, properties requesting landmark designation, and all properties located within a Historic District.

3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** The Commission’s recommendation shall be by resolution.
5) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3 and the provisions of Section 26.304.035 – Neighborhood Outreach as applicable.

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**Step Two – Public Hearing before City Council.**

1) **Purpose:** To determine if the application meets the standards for approval.

2) **Process:** The Community Development Director shall provide City Council with a recommendation to approve, approve with conditions, or deny the application, based on the standards of review. City Council shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director, the recommendation from the Planning and Zoning Commission or Historic Preservation Commission, and comments and testimony from the public at a duly noticed public hearing.

3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** City Council decision shall be by ordinance.

5) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3, the requirements of Section 26.304.035 – Neighborhood Outreach as applicable, and the requisite notice requirements for adoption of an ordinance by City Council.

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**D. Combined Reviews.** An application for growth management review may be combined with development applications for other associated land use reviews, pursuant to Section 26.304.060.B.1, Combined Reviews.

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**26.470.070 Exempt development.**
The following types of development shall be exempt from the provisions of this Chapter. Development exempt from growth management shall not be considered exempt from other chapters of the Land Use Code. Where applicable, exemptions are cumulative.

A. **Remodeling or renovation of existing single-family and duplex residential development.** The remodeling or renovation of existing single-family and duplex residential properties, that does not trigger Demolition pursuant to 26.580, shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property. When an expansion of Mitigation Floor Area occurs, see Section 26.470.0.090.A.

B. **Conversion of an existing single-family residence to a duplex residence or two (2) detached residences or vise-versa, when Demolition is not triggered.** The conversion of an existing single-family residence to a duplex residence or two (2) detached single-family residences, or vise-versa,
shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property. When an expansion of Mitigation Floor Area occurs, see Section 26.470.090.A.

C. Remodeling or expansion of existing multi-family residential development. The remodeling of existing multi-family residential dwellings shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property and provided demolition of a unit or structure does not occur. When an expansion of Mitigation Floor Area occurs, see Section 26.470.090.B. When demolition occurs, see Paragraph 26.470.100.D, Demolition or redevelopment of multi-family housing. (Also see definition of Demolition, Section 26.104.100, and Chapter 26.580 - Demolition.)

D. Remodeling or Relocation of historic structures. The remodeling or permanent or temporary relocation of a structure listed on the Aspen Inventory of Historic Landmark Sites and Structures, shall be exempt from growth management, provided that all necessary approvals are obtained, pursuant to Chapter 26.415, no Mitigation Floor Area expansion occurs, and Demolition is not triggered. Expansions shall be mitigated pursuant to this chapter.

E. Remodeling of existing commercial development. Remodeling of existing commercial buildings and portions thereof shall be exempt from the provisions of growth management, provided that demolition is not triggered, no additional net leasable square footage is created, and there is no change in use. If redevelopment involves an expansion of net leasable square footage, the replacement of existing net leasable square footage shall not require growth management allotments and shall be exempt from providing affordable housing mitigation only if that space previously mitigated. Existing, prior to demolition, net leasable square footage and lodge units shall be documented by the City Zoning Officer prior to demolition. Also see definitions of demolition and net leasable commercial space, Section 26.104.100.

If Demolition is triggered not due to remodel activity but is determined by the Community Development Director to be required for Normal Maintenance as defined in Title 26 (see definition in section 26.104.100) or to rectify life safety issues, such as replacing a failing roof or mold removal, the square footage impacted by the work shall be exempt from this section. This provision shall not be allowed to increase the height, floor area, net livable area or net leasable area of a building beyond what is the minimum necessary required to comply with the Building Code.

F. Special events. Special events permitted by the City shall be exempt from this Chapter.

G. Accessory dwelling units and carriage houses. The development of accessory dwelling units (ADUs) and carriage houses shall be exempt from the provisions of this Chapter but subject to the provisions of Chapter 26.520, Accessory Dwelling Units and Carriage Houses.

H. Retractable canopies and trellis structures. Trellis structures and retractable canopies appended to a commercial or lodging structure shall be exempt from growth management provided that: a) there is no expansion of floor area; and b) the canopy or trellis structure is not enclosed by walls, screens, windows or other enclosures. Awnings shall be exempt from this Chapter.
I. Public infrastructure. The development of public infrastructure such as roads, bridges, waterways, utilities and associated poles, wires, conduits, drains, hydrants and similar items considered essential services shall be exempt from growth management. Essential public facilities shall not be exempt and shall be reviewed pursuant to Section 26.470.110.D, Essential public facilities. (Also see definition of essential services, Section 26.104.100)

All Planning and Zoning Commission and City Council applications for growth management review shall comply with the following standards.

A. Sufficient Allotments: Sufficient growth management allotments are available to accommodate the proposed development, pursuant to Subsection 26.470.040.B. Applications for multi-year development allotment, pursuant to Paragraph 26.470.110.A shall be required to meet this standard for the growth management years from which the allotments are requested.

B. Development Conformance: The proposed development conforms to the requirements and limitations of this Title, of the zone district or a site-specific development plan, any adopted regulatory master plan, as well as any previous approvals, including the Conceptual Historic Preservation Commission approval, the Conceptual Commercial Design Review approval and the Planned Development – Project Review approval, as applicable.

C. Public Infrastructure and Facilities. The proposed development shall upgrade public infrastructure and facilities necessary to serve the project. Improvements shall be at the sole costs of the developer. Public infrastructure includes, but is not limited to, water supply, sewage treatment, energy and communication utilities, drainage control, fire and police protection, solid waste disposal, parking and road and transit services.

D. Affordable Housing Mitigation.
1) For commercial development, sixty-five percent (65%) of the employees generated by the additional commercial net leasable space, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing.

2) For lodge development, sixty-five percent (65%) of the employees generated by the additional lodge pillows, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing. For the redevelopment or expansion of existing lodge uses, see section 26.470.100.G.

3) For the redevelopment of existing commercial net leasable space that did not previously mitigate (see Section 26.470.100.E), the mitigation requirements for affordable housing shall be phased at 15% beginning in 2017, and by 3% each year thereafter until 65% is reached, as follows:
<table>
<thead>
<tr>
<th>Development Order applied for during calendar year -</th>
<th>Mitigation required (percent of employees generated by the existing space that has previously not mitigated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>15%</td>
</tr>
<tr>
<td>2018</td>
<td>18%</td>
</tr>
<tr>
<td>2019</td>
<td>21%</td>
</tr>
<tr>
<td>2020</td>
<td>24%</td>
</tr>
<tr>
<td>2021</td>
<td>27%</td>
</tr>
<tr>
<td>2022</td>
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4) Unless otherwise exempted in this chapter, when a change in use between development categories is proposed, the employee mitigation shall be based on the use the development is converting to. For instance, if a commercial space is being converted to lodge units, the mitigation shall be based on the requirements for lodge space, outlined in subsection 2,
above. Conversely, if lodge units are being converted to commercial space, the mitigation shall be based on the requirements for commercial space, outlined in subsections 1 and 3, above.

5) For new residential subdivisions, see sections 26.470.100.H and I.

6) For new, redeveloped, or renovated single-family and duplex residential development, or the affordable housing mitigation requirements are established by 26.470.090.A and C.

7) For the expansion of existing free-market multi-family units, affordable housing mitigation requirements are established by 26.470.090.B.

8) For new free-market multi-family units, affordable housing mitigation requirements are established by 26.470.090.F.

9) For the demolition or redevelopment of existing multi-family residential development, affordable housing mitigation requirements are established by 26.470.100.D.

10) For essential public facility development, mitigation shall be determined based on Section 26.470.110.D.

11) For all affordable housing units that are being provided as mitigation pursuant to this chapter or for the creation of a Certificate of Affordable Housing Credit pursuant to Chapter 26.540, or for any other reason:

   i. The proposed units comply with the Aspen/Pitkin County Housing Authority Employee Housing Regulations and Affordable Housing Development Policy, as amended.

   ii. Required affordable housing may be provided through a mix of methods outlined in this chapter, including newly built units, buy down units, certificates of affordable housing credit, or cash-in-lieu.

   iii. Affordable housing that is in the form of newly built units or buy-down units shall be located on the same parcel as the proposed development or located off-site within the City limits. Units outside the City limits may be accepted as mitigation by the City Council, pursuant to Section 26.470.110.B. When off-site units within City limits are proposed, all requisite approvals shall be obtained prior to approval of the growth management application.

   iv. Affordable housing mitigation in the form of a Certificate of Affordable Housing Credit, pursuant to Chapter 26.540, shall be extinguished pursuant to Section 26.540.120, Extinguishment and Re-Issuance of a Certificate, utilizing the calculations in Section 26.470.050.F, Employee/Square Footage Conversion.

   v. If the total mitigation requirement for a project is less than 0.1 FTEs, a cash-in-lieu payment may be made by right. If the total mitigation requirement for a project is 0.1 or more FTEs, a cash-in-lieu payment shall require City Council approval, pursuant to Section 26.470.110.C.
vi. Affordable housing units shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing.

vii. Each unit provided shall be designed such that the finished floor level of fifty percent (50%) or more of the unit's net livable area is at or above natural or finished grade, whichever is higher. This dimensional requirement may be varied through Special Review, Pursuant to Chapter 26.430

12) Affordable housing units that are being provided absent a requirement ("voluntary units") may be deed-restricted at any level of affordability, including residential occupied (RO).

13) Residential Mitigation Deferral Agreement.
   For property owners qualified as a full-time local working resident, an affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen subject to the Aspen/Pitkin County Housing Authority Employee Housing Regulations. This allows deferral of the mitigation requirement for residential development until such time as the property is no longer owned by a full-time local working resident. Staff of the City of Aspen Community Development Department and Staff of the Aspen/Pitkin County Housing Authority can assist with the procedures and limitations of this option. The City Attorney and Community Development Director shall prescribe the form to be used for a Deferral Agreement. A copy of the Deferral Agreement form is on file with the City of Aspen Community Development Department.

   The required mitigation shall be calculated to the FTE and then multiplied by the codified Fee-in-Lieu at the time of building permit submission. This amount will be identified in the Deferral Agreement. Following the establishment of the initial mitigation requirement in the Deferral Agreement, the amount of mitigation initially identified shall increase annually by the CPI for each year that the Deferral Agreement is in effect until such time that the Deferral Agreement is terminated following sale to a non-resident. The term “CPI” shall mean the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, not seasonally adjusted, 1984=100 reference base; published by the United States Department of Labor, Bureau of Labor Statistics. The calculation of the value of the mitigation required at the time of the termination of the Deferral Agreement may be completed using a commonly available calculator that aggregates the CPI over time. The term of the calculation shall be the month of the initial execution of the Deferral Agreement and the most recent index month available at the time of release of the Deferral Agreement. The provision describing this regular annual increase shall be described in the Deferral Agreement. The Deferral Agreement shall be recorded prior to the issuance of a Certificate of Occupancy or Letter of Completion.

   Should a property with a Deferral Agreement in place be sold to a qualified resident, a new Deferral Agreement shall be established, identifying the initial mitigation requirement, and an inclusion of the continued annual increases that will continue to accrue from the date of initiation of the original deferral agreement. The initiation date of the original deferral agreement shall be identified in the new deferral agreement.
Deferral Agreements initiated prior to July 28, 2022, shall remain in effect and are not subject to the stipulations described in the paragraphs above. If desired, the parties to a previously established deferral agreement may, at their discretion, enter into a new deferral agreement that that updates the terms to be consistent with the provisions identified above.

26.470.090 Administrative applications.

The following types of development shall be approved, approved with conditions or denied by the Community Development Director, pursuant to Section 26.470.060, Procedures for Review, and the criteria described below. Except as noted, all administrative growth management approvals shall not be deducted from the annual development allotments. All approvals apply cumulatively.

A. Single-Family and Duplex Residential Development or Expansion that does not trigger Demolition, pursuant to 26.580.

The following types of free-market residential development do not require a development allotment and may proceed to building permit absent the need of any other land use reviews. These types of development shall require the provision of affordable housing mitigation in one of the methods described in subsection 3 below.

1) This section applies to the new development of a single-family, two detached residential units, or a duplex dwelling on a lot in one of the following conditions:

   a. A lot created by a lot split, pursuant to Subsection 26.480.060.A.

   b. A lot created by a historic lot split, pursuant to Subsection 26.480.060.B, when the subject lot does not itself contain a historic resource.

   c. A lot that was subdivided or was a legally described parcel prior to November 14, 1977, that complies with the provisions of Subsection 26.480.020, Subdivision: applicability, prohibitions, and lot merger.

2) Mitigation shall be based off the net increase of Mitigation Floor Area of an existing single-family, two detached residential units on a single lot, or a duplex dwelling, during remodeling and renovation scenarios when the definition of Demolition is not met.

3) The applicant shall have four (4) options for providing the required affordable housing mitigation:

   a. Recording a resident-occupancy (RO), or lower, deed restriction on the single-family dwelling unit or one of the residences if a duplex or two detached residences are developed on the property. An existing deed restricted unit does not need to re-record a deed restriction.

   b. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines (which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit. The mitigation unit must be
deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

c. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

   i. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.100 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

d. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

   Example 1: A new home of 3,400 square feet of Mitigation Floor Area on a vacant lot created by a historic lot split. The applicant must provide affordable housing mitigation for .364 FTEs.

   \[
   3,400 / 1,000 \times 0.107 = 0.36
   \]

   In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.

   Example 2: An existing home of 4,500 square feet of Mitigation Floor Area is expanded by 250 square feet of Mitigation Floor Area. The renovation does not meet the definition of Demolition. The applicant must provide affordable housing mitigation for .03 FTEs.

   \[
   250/1000 \times 0.107 = 0.03
   \]

   In this example the applicant may provide a Certificate of Affordable Housing Credit or a fee-in-lieu payment.

B. Multi-Family Residential Expansion. The net increase of Mitigation Floor area of an existing free-market multi-family unit or structure, regardless of when the lot was subdivided or legally described shall require the provision of affordable housing mitigation in one of the methods described below. This type of free-market residential development does not require a development allotment and may proceed directly to building permit. (When demolition occurs, see Section 26.470.100.E, Demolition or redevelopment of multi-family housing.)

1) Mitigation shall be based off the net increase of Mitigation Floor Area of an existing free-market multi-family unit or structure, and provided Demolition does not occur.

2) Affordable housing mitigation requirements for the type of free-market residential development described above shall be as follows. The applicant shall have four (4) options:
a. Recording a resident-occupancy (RO), or lower, deed restriction on the dwelling unit(s) being expanded. An existing deed restricted unit does not need to re-record a deed restriction.

b. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines (which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit(s). The mitigation unit(s) must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

c. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

i. When a unit adds Floor Area, the difference between the generation rates of the existing Mitigation Floor Area and the proposed Mitigation Floor Area shall be the basis for determining the number of employees generated. No refunds shall be provided if Floor Area is reduced.

ii. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.050 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

d. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

Example 1: A multi-family unit of 1,400 square feet of Floor Area is expanded by 400 square feet of Mitigation Floor Area. The applicant must provide affordable housing mitigation for 0.04 FTEs.

\[
\frac{400}{1,000} \times 0.107 = 0.04
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or a fee-in-lieu payment.

Example 2: A multi-family unit of 1,400 square feet of Floor Area is expanded by 1,000 square feet of Mitigation Floor Area. The applicant must provide affordable housing mitigation for 0.11 FTEs, the difference in employee generation of the two unit sizes.

\[
\frac{1000}{1,000} \times 0.107 = 0.11
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.
C. Single-Family and Duplex Redevelopment or Expansion that does trigger Demolition as defined by Section 26.580. Demolition and Redevelopment of Single-Family and Duplex properties shall require a land use application pursuant to Section 26.304, the allocation of a Growth Management allotment, and shall provide affordable housing mitigation in one of the methods described below.

1. Applicability
This review shall apply to all applications for development and redevelopment of single-family and duplex project that triggers Demolition as outlined Section 26.580, unless otherwise exempted in Section 26.580.050.

2. Procedures for Review
   a. General. An application for a GMQS review of the Demolition and Redevelopment of a single-family or duplex project shall be submitted (subject to the requirements of 26.304, 26.580 and 26.470.090.C) and will considered in an Administrative Review by the Community Development Director. Following review, an approval would be granted by a recorded Notice of Approval and the issuance of a Development Order. On a single parcel, the Demolition of a Single Family, two detached dwellings, or Duplex residential structure shall require one allotment.

   b. Determination of Applicability. The applicant may request a preliminary Demolition pre-application conference with Community Development staff to determine the applicability of the Chapter and the application submission requirements. If a project is likely to trigger Demolition, a meeting should be set up with a Zoning Officer to confirm if the project is subject to Section 26.580 – Demolition. An applicant must request a Pre-application conference summary outlining application requirements when a project triggers Demolition pursuant to Section 26.580 - Demolition.

   c. Timing. Applications for a Demolition Allotment shall be received and processed on a first come, first serve basis. An application shall not be reviewed or considered until determined “Complete” per 26.304. An application may be submitted concurrently with a building permit application for the project. Once determined “Complete” the application will be considered in order with any other “Complete” applications, based on the date and time at which the applications were determined “Complete”. Once in review, the ordering of applications for consideration of an allotment will remain.

   d. Residential Demolition and Redevelopment Standards. This document sets the standards under which a redevelopment project will be reviewed and will serve as the basis under which a project will be approved for the issuance of a development allotment. This document, as amended from time to time, is available on Community Development’s web page or may be requested from a staff planner.

   e. Combined Reviews. An application for growth management review may be a combined with development applications for other associated land use reviews, pursuant to Section 26.304.060.b.1, Combined Reviews.
f. Variations. An application requesting a Variation of the Residential Demolition and Redevelopment Standards, or the review standards identified below, shall be processed as a Special Review in accordance with the common development review procedures set forth in 26.304. The Special Review (26.430.040.K) shall be considered a public hearing for which notice has been provided pursuant to 26.304.060.e.3. Review is by the Planning and Zoning Commission. In this case, the granting of the development allotment would not be granted until Planning and Zoning Commission approves the special review.

g. Insufficient Demolition allotments. Any property owner within the City who is prevented from redeveloping a property because that year's Demolition allotments have been entirely allocated may apply for City Council Review for a Multi-Year Development Allotment subject to 26.470.110.A.

3. Review Standards for projects requesting a Demolition Allotment

1. Adequate growth management allotments are available for the project and the project meets any applicable review criteria in Chapter 26.470 – Growth Management Quota System.

2. The project shall meet the requirements of the Residential Demolition and Redevelopment Standards prior to building permit issuance. The project shall be subject to the Residential Demolition and Redevelopment Standards in effect at the time of building permit submission is deemed complete.

4. Application Contents

Applications for a Demolition allotment shall include all application requirements outlined in Section 26.470.130 and Section 26.304, in addition to the following:

A. Demolition diagrams depicting total area to be demolished consistent with the methodology outlined in Section 26.580.040.

B. A written response to all applicable review criteria, including responses to the Residential Demolition and Redevelopment Standards, as amended from time to time pursuant to Chapter 26.580.

5. Affordable Housing Mitigation Requirements:

a. Affordable housing mitigation requirements for free-market residential development that triggers Demolition pursuant to Chapter 26.580, shall be as follows. The applicant shall have four (4) options:

i. Recording a Resident-Occupancy (RO), or lower, deed restriction on the single-family dwelling unit or one of the residences if a duplex or two detached residences are developed on the property. An existing deed restricted unit does not need to re-record a deed restriction.

ii. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines
(which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit. The mitigation unit must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

iii. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

a. Employment Generation Rate: 0.107 per 1000 square feet of Mitigation Floor Area
b. For redevelopment or renovation of an existing single-family or duplex that meets the definition of Demolition (26.104.100), all Mitigation Floor Area (existing and new) shall be calculated toward employee generation and required mitigation.
c. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.100 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

ii. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

Example: An existing home is redeveloped in a fashion that meets the definition of Demolition. The redeveloped home has a Mitigation Floor Area of 5,700 sf.

\[
\frac{5,700}{1000} \times 0.107 = 0.61 \text{ FTE}
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.

D. **100% Affordable Housing Development.** All applications for the development of projects that are comprised of 100% affordable housing units, deed-restricted in accordance with the Aspen Pitkin County Housing Authority Regulations, shall be first reviewed administratively for compliance with this Chapter and relevant criteria as described below. Projects found by the Community Development Director to be in full conformance, shall be approved or approved with conditions by recordation of a Notice of Approval and the issuance of a development order. Applications that are not found to be in conformance with this section, shall be subject to GMQS Review with the Planning and Zoning Commission per 26.470.100.C, or the application may be amended to bring the project into conformance for administrative approval.
1) To be approved administratively, a project must meet the following criteria:
   a. “For sale” or rental units.
      i. The proposed units shall be deed-restricted as “for sale” units and transferred to
         qualified purchasers according to the Aspen Pitkin County Housing Authority
         Regulations. The developer of the project may be entitled to select the first
         purchasers, subject to the aforementioned qualifications, pursuant to the Aspen
         Pitkin County Housing Authority Regulations. The deed restriction may
         authorize the Aspen Pitkin County Housing Authority or the City to own the unit
         and rent it to qualified renters as defined in the Aspen Pitkin County Housing
         Authority Regulations, as amended.; or
      ii. The proposed units may be rental units, including but not limited to rental units
          owned by an employer, government or quasi-government institution, or non-
          profit organization if a legal instrument in a form acceptable to the City Attorney
          ensures permanent affordability of the units. The City encourages affordable
          housing associated for lodge development to be rental units associated with the
          lodge operation and contributing to the long-term viability of the lodge; or
      iii. The proposed units may be a combination of “for sale” and rental units.
   b. The units in the project comply with the Aspen Pitkin County Housing Authority’s
      Regulations and Affordable Housing Development Policy, as amended.
   c. The project meets all dimensional requirements of the underlying Zone District as
      described in Chapter 26.710 and does not require the approval of a variance of any
   d. The project meets all provisions of 26.410. Residential Design Standards and is
      compliant with Commercial Lodging and Historic District Design Standards and
      Guidelines, as may be applicable.
   e. The project is in conformance with the requirements of Chapter 26.515,
      Transportation and Parking Management.
   f. If a project is pursuing Certificates of Affordable Housing Credit, the requirements
      of 26.540 shall be met.
   g. A project approved under this administrative process may be comprised of Category
      and/or Resident-Occupied (RO) units.
   h. Each unit provided shall be designed such that the finished floor level of fifty percent
      (50%) or more of each unit’s net livable area is at or above natural or finished grade,
      whichever is higher.
2) Review of 100% Affordable Housing Development on Designated Sites in a Historic District but *Not* containing a Historic Resource; and on Designated Sites Outside of Districts and *Not* Containing a Resource.

Development of these properties, when the use is 100% affordable housing, shall be approved or approved with conditions by Administrative Review if compliant with Chapter 26.410, Residential Design Standards; Chapter 26.470, Growth Management; Chapter 26.515, Transportation and Parking Management; Chapter 26.540, Certificates of Affordable Housing Credit, and Chapter 26.710 for the applicable Zone District. In addition, the Historic Preservation Officer and the Chair of the Historic Preservation Commission, or their assign, must jointly determine compliance with the following non-flexible design standards.

a. **Create porosity on the site.** To meet this standard, achieve at least one of the following:
   i. Provide a front setback one-an-a-half (1.5) times the minimum requirement of the zone district; or
   ii. Provide at least two (2) usable private outdoor spaces, such as porches or upper floor decks, which are at least six (6) feet deep and fifty (50) square feet in area on the street-facing façade(s); or
   iii. Provide a shared outdoor gathering area of at least 100 square feet in area, so that at least fifty (50) square feet in area can be directly viewed from the street.

b. **Ensure proportions of historic resources are incorporated in a new structure.** All street-facing façade(s) of the development shall be demonstrated through a diagram to include at least one (1) instance of a width by height modulation that directly reflects a width by height modulation of the nearest historic primary structure on the block face(s).

c. **Design the development to be recognized as a product of its time.** Consider these three (3) aspects of the architecture: roof form, materials, and fenestration. The development must relate strongly to at least one (1) specific designated historic resource on the block face and in the same zone district in at least two (2) of these categories. Departing from that historic resource in one of these categories allows for creativity and a contemporary design response.
   i. When choosing to relate to roof form, match a primary roof pitch of the development to at least one (1) primary roof pitch found on the historic resource.
   ii. When choosing to relate to materials, match at least one primary material of the development to that on the historic resource. A change in the finish, dimension or orientation is allowed.
   iii. When choosing to relate to fenestration, match at least one street-facing window on the development to the dimensions of at least one (1) street-facing window on the historic resource. A change in window finish or orientation is allowed.
3) Review of 100% Affordable Housing Development on Designated Sites Containing a Historic Resource where the Historic Resource is fully detached from all new construction, and all non-historic additions are to be removed, and no new addition will be made to the historic resource, and all new construction taller than one story is distanced at least 10 feet from the historic resource on all sides.

Development of these properties, when the use is 100% affordable housing, shall be subject to a one step review by the Historic Preservation Commission, for compliance with Section 26.415.070.C, Certificate of appropriateness for a minor development (demolition of non-historic additions and all work directly affecting the historic resource); and Section 26.415.090 Relocation of designated historic properties. All City of Aspen Historic Preservation Design Guidelines applicable to work affecting the historic resource shall apply in addition to the following criteria:

a. HPC may not deny Relocation, but shall determine a siting for the historic structure that best meets the City of Aspen Historic Preservation Design Guidelines while accommodating the allowed development rights for the property. A Conceptual site plan representing the full project must be provided to assist in this review.

b. HPC may grant approval for the historic resource only to be located in the side, rear and front setbacks per Section 26.415.110.C.1.a, Variations. New construction is not permitted to be located in a setback. HPC may allow the new structure to provide no less than six (6) feet as the minimum distance requirement between buildings per Section 26.415.110.C.1.b. Where the historic resource is one story in height, this reduction is only permissible if the new construction permitted to be within six (6) feet of the resource is one story in height for at least ten (10) feet in depth.

c. The application must include a detailed summary, in consultation with the Historic Preservation Officer, of all necessary repairs to historic fabric that will be completed during construction including exterior materials, doors and windows. The summary must also identify all opportunities to restore an element of the historic resource to an earlier condition that can be documented through photographs or physical inspection. HPC will prioritize and require up to three (3) of these to be completed during construction. Examples include: re-opening of an enclosed porch, restoration of the original design of a street facing window, and restoration of missing details such as decorative porch trim.

d. As applicable, site development shall be designed so that:
   i. A front walkway to the historic resource shall be no wider than the minimum requirement for accessibility, shall run directly from the street to the door unless necessary to avoid a preserved tree, and shall be gray concrete, brick, rectilinear stone or flagstone, to be determined by HPC.
ii. Stormwater facilities and conveyances shall be demonstrated to fully integrated with the surrounding landscape palette when viewed from the public right of way.

iii. The perimeter of the historic resource shall be entirely bordered by a gravel or small diameter rock planting strip one (1) foot in width to protect from the impacts of landscape planting and watering. No plant material around the historic resource shall have an identified mature height taller than forty-two inches (42”), other than one shrub or tree, placed with the mature size of the species in mind. No hardscape, other than a front walkway, shall be permitted in street-facing yards around the historic resource.

iv. Perimeter fences which are considered part of the historic significance of a site shall be retained and repaired and cannot be moved, removed, or inappropriately altered.

v. Any new fence between the historic resource and the street shall be no more than forty-two inches (42”) in height and shall have no less than a solid to void ratio of fifty-percent (50%).

e. Following HPC review, Administrative Review will be conducted for determination that the new construction on the site is in compliance with Chapter 26.410, Residential Design Standards; Chapter 26.470, Growth Management; Chapter 26.515, Transportation and Parking Management; Chapter 26.540, Certificates of Affordable Housing Credit, and Chapter 26.710 for the applicable Zone District. In addition, the Historic Preservation Officer and the Chair of the Historic Preservation Commission, or their assign, must jointly determine compliance with the following non-flexible design standards.

i. Ensure proportions of historic resources are incorporated in a new structure. All street-facing façade(s) of the development shall be demonstrated through a diagram to include at least one (1) instance of a width by height modulation that directly reflects a width by height modulation of the historic resource.

ii. Design the development to be recognized as a product of its time. Consider these three aspects of the architecture: roof form, materials, and fenestration. The development must relate strongly to the historic resource in at least two (2) of these categories. Departing from the historic resource in one of these categories allows for creativity and a contemporary design response.

   1. When choosing to relate to roof form, match a primary roof pitch of the development to at least one primary roof pitch found on the historic resource.

   2. When choosing to relate to materials, match at least one primary material of the development to that on the historic resource. A change in the finish, dimension or orientation is allowed.
3. When choosing to relate to fenestration, match at least one street-facing window on the development to the dimensions of at least one street-facing window on the historic resource. A change in window finish or orientation is allowed.

   iii. Allow the resource to be read as the unique architectural highlight of the property. Demonstrate that the historic resource will be distinguished from the new development through its height, ornamentation, or primary material.

4) **Application Materials.** In addition to the application materials required by section 26.470.130 and 26.304, the following shall be included in an application for administrative review of a 100% affordable housing project:

   a. Floor Plans – that include detailed drawings of individual units including floor area and net livable area for the entire site and unit by unit breakdown.

   b. Elevations that provide detail on height and fenestration.

   c. Parking Plan – that includes detail on access and relationship to the right-of-way.

   d. Residential Design Standards Application

   e. Narrative that describes the unit types and sizes, proposed categories of units, unit and project amenities and otherwise describes compliance with 26.470.090.C.1.a-i.

   Any necessary submittal items necessary to provide sufficient detail in meeting the review standards identified in 26.470.090.D.1.i or 26.470.090.D.2 above. This may include site plans, relocation plans, demolition plans, landscaping plans etc. for projects subject to the identified elements of the *Historic Preservation Design Guidelines*.

5) **Review Process.**

   a. Application is submitted and accepted for review consistent with 26.304. Common Development Procedures.

   b. APCHA, Engineering, Environmental Health and Parks shall be formal referral agencies on the application to identify any necessary conditions of approval.

   c. While not required, it is highly encouraged that a meeting with the Development Review Committee is scheduled prior to approval to resolve any potential issues at this early stage of the design process to facilitate a more efficient building permit review.
d. If applicable, an HPC approval, pursuant to 26.470.090.D.2 shall be completed before the completion of the administrative review process.

e. Approval shall be granted by the Community Development Director in the form of a recorded Notice of Approval. A Development Order shall be subsequently issued.


E. Minor expansion of a commercial, lodge or mixed-use development. The minor enlargement of a property, structure or portion of a structure for commercial, lodge or mixed-use development when demolition is not triggered shall be approved, approved with conditions or denied by the Community Development Director based on the following criteria. The additional development of uses identified in Section 26.470.020 shall not be deducted from the respective annual development allotments.

   a. The expansion involves no more than five-hundred (500) square feet of net leasable space, no more than two-hundred-fifty (250) square feet of Floor Area, and no more than three (3) additional hotel/lodge units. No employee mitigation shall be required.

   b. The expansion involves no residential units.

   c. This shall be cumulative and shall include administrative GMQS approvals granted prior to the adoption of Ordinance No. 22, Series of 2013.

   d. When demolition is triggered, the application shall be reviewed pursuant to Section 25.470.100(F), Expansion or new commercial development.

F. Sale of locally-made products in common areas of commercial buildings. Commercial use of common areas within commercial and mixed-use buildings which contain commercial use (a.k.a. “non-unit spaces,” “arcades,” “hallways,” “lobbies,” or “malls”) shall be approved, approved with conditions or denied by the Community Development Director based on the following criteria.

   1) Products shall be limited to arts, crafts, or produce designed, manufactured, created, grown, or assembled in the Roaring Fork Valley, defined as the watershed of the Roaring Fork River plus the municipal limits of the City of Glenwood Springs. Exempt from these product and geographic limitations are items sold by a hardware store adjacent to the common area and items incidental to arts, crafts, and produce such as frames and pedestals.

   2) The area can be used by an existing business within the building or by “stand-alone” businesses. Multiple spaces may be created.

   3) These areas shall not be considered net leasable space for the purposes of calculating impact fees or redevelopment credits. No employee mitigation shall be required. Compliance with all zoning, building, and fire codes is mandatory.
G. Outdoor food/beverage vending license. Outdoor food/beverage vending shall be approved, approved with conditions or denied by the Community Development Director based on the following criteria:

1) Location. All outdoor food/beverage vending must be on private property and may be located in the Commercial Core (CC), Commercial (C1), Neighborhood Commercial (NC), or Commercial Lodge (CL) zone districts. Outdoor Food Vending may occur on public property that is subject to an approved mall lease. Additional location criteria:
   a. The operation shall be in a consistent location as is practically reasonable and not intended to move on a daily basis throughout the duration of the permit.
   b. Normal operation, including line queues, shall not inhibit the movement of pedestrian or vehicular traffic along the public right-of-way.
   c. The operation shall not interfere with required emergency egress or pose a threat to public health, safety and welfare. A minimum of six (6) foot ingress/egress shall be maintained for building entrances and exits.

2) Size. The area of outdoor food/beverage vending activities shall not exceed fifty (50) square feet per operation. The area of activity shall be defined as a counter area, equipment needed for the food vending activities (e.g. cooler with drinks, snow cone machine, popcorn machine, etc.), and the space needed by employees to work the food vending activity.

3) Signage. Signage for outdoor food/beverage vending carts shall be exempt from those requirements found within Land Use Code Section 26.510, Signs, but not excluding Prohibited Signs. The total amount of signage shall be the lesser of fifty percent (50%) of the surface area of the front of the cart, or six (6) square feet. Sign(s) shall be painted on or affixed to the cart. Any logos, lettering, or signage on umbrellas or canopies counts towards this calculation. Food carts may have a sandwich board sign in accordance with the regulations found within Chapter 26.510.

4) Environmental Health Approval. Approval of a food service plan from the Environmental Health Department is required. The area of outdoor food vending activities shall include recycling bins and a waste disposal container that shall be emptied daily and stored inside at night and when the outdoor food vending activities are not in operation. Additionally, no outdoor, open-flame char-broiling shall be permitted pursuant to Municipal Code Section 13.08.100, Restaurant Grills.

5) Building and Fire Code Compliance. All outdoor food/beverage vending operations must comply with adopted building and fire codes. Applicants are encouraged to meet with the City’s Building Department to discuss the vending cart/stand.

6) Application Contents. An application for a food/beverage vending license shall include the standard information required in 26.304.030.B, plus the following:
   a. Copy of a lease or approval letter from the property owner.
b. A description of the operation including days/hours of operation, types of food and beverage to be offered, a picture or drawing of the vending cart/stand, and proposed signage.

c. The property survey requirement shall be waived if the applicant can demonstrate how the operation will be contained on private property.

7) **License Duration.** Outdoor food/beverage vending licenses shall be valid for a one (1) year period beginning on the same the date that the Notice of Approval is signed by the Community Development Director. This one (1) year period may not be separated into non-consecutive periods.

8) **License Renewal.** Outdoor food/beverage vending licenses may be renewed. Upon renewal the Community Development Director shall consider the returning vendor’s past performance. This shall include, but shall not be limited to, input from the Environmental Health Department, Chief of Police, special event staff, and feedback from adjacent businesses. Unresolved complaints may result in denial of a renewal request.

9) **Business License.** The vending operator must obtain a business license.

10) **Affordable Housing and Impact Fees Waived.** The Community Development Director shall waive affordable housing mitigation fees and impact fees associated with outdoor food/beverage vending activities.

11) **Maintenance and public safety.** Outdoor food/beverage vending activities shall not diminish the general public health, safety or welfare and shall abide by applicable City regulations, including but not limited to building codes, health safety codes, fire codes, liquor laws, sign and lighting codes, and sales tax license regulations.

12) **Abandonment.** The City of Aspen may remove an abandoned food/beverage vending operation, or components thereof, in order protect public health, safety, and welfare. Costs of such remediation shall be the sole burden of the property owner.

13) **Temporary Cessation.** The Community Development Director may require a temporary cancelation of operations to accommodate special events, holidays, or similar large public gatherings. Such action will be taken if it is determined that the food/beverage cart will create a public safety issue or create an excessive burden on the event activities.

14) **License Revocation.** The Community Development Director may deny renewal or revoke the license and cause removal of the food/beverage vending operation if the vendor fails to operate consistent with these criteria. An outdoor food/beverage vending license shall not constitute nor be interpreted by any property owner, developer, vendor, or court as a site-specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes or Chapter 26.308 of this Title. Licenses granted in this subsection are subject to revocation by the City Manager or Community Development Director without requiring prior notice.
H. Temporary uses and structures. The development of a temporary use or structure shall be exempt from growth management, subject to the provisions of Chapter 26.450, Temporary and Seasonal Uses. Temporary external airlocks shall only be exempt from the provisions of this Chapter if compliant with applicable sections of Commercial Design Review – Chapter 26.412, and approved pursuant to Chapter 26.450 Temporary and Seasonal Uses. Tents, external airlocks, and similar temporary or seasonal enclosures located on commercial properties and supporting commercial use shall only be exempt from the provisions of this Chapter, including affordable housing mitigation requirements, if compliant with applicable sections of Commercial Design Review – Chapter 26.412, if erected for 14 days or less in a 12-month period, and approved pursuant to Chapter 26.450 – Temporary and Seasonal Uses. Erection of these enclosures for longer than 14 days in a 12-month period shall require compliance with Commercial Design Review – Chapter 26.412, and compliance with the provisions of this Chapter including affordable housing mitigation. Affordable housing mitigation shall be required only for the days in excess of 14 in a 12-month period. Cash-in-lieu may be paid by-right. The mitigation calculation shall include the expected lifespan of a building, which is currently 30 years. For instance, a 500 sq. ft. tent proposed to be up for 21 days shall only require mitigation for seven (7) days. The calculation would be as follows:

**Methodology:**

- 500 sq. ft. / 1000 sq. ft. = .5 sq. ft.
- .5 sq. ft. x 4.7 FTEs = 2.35 FTEs generated
- 2.35 FTEs x 65% mitigation rate = 1.5275 FTEs to be mitigated if structures are in use 100% of year
- 1.5275 FTEs / 365 days per year = .004184931 daily rate
- .004184931x 7 days = .029294517FTEs
- .029294517x $223,072 cash-in-lieu rate = $6,534.78
- $6,534.78/ 30 years = **$217.82 due for mitigation of the structure for a period of 7 days**

26.470.100 Planning and Zoning Commission applications.

The following types of development shall be approved, approved with conditions or denied by the Planning and Zoning Commission, pursuant to Section 26.470.060, Procedures for review, and the criteria for each type of development described below. Except as noted, all growth management applications shall comply with the general requirements of Section 26.470.080. Except as noted, the following types of growth management approvals shall be deducted from the annual development allotments. Approvals apply cumulatively.

A. **Change in use.** A change in use of an existing property, structure or portions of an existing structure between the development categories identified in Section 26.470.020 (irrespective of direction), for which a certificate of occupancy has been issued and which is intended to be reused, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080. No more than one (1) free-market residential unit may be created through the change-in-use.

B. **Expansion of free-market residential units within a multi-family or mixed-use project.** The net livable area expansion of existing free-market residential units within a mixed-use
project shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080. The remodeling or expansion of existing multi-family residential dwellings shall be exempt from growth management as long as no demolition occurs, pursuant to Section 26.470.070.C. Expansion of existing free-market residential units shall not require a development allotment.

C. Affordable Housing. The development of affordable housing that does not qualify for administrative review and approval under the criteria established in 26.470.090.C, shall be approved, approved with conditions, or denied by the Planning and Zoning Commission based on the general requirements outlined in 26.470.080, and all other applicable review criteria of this title. If the affordable housing project is located in a historic district or on a historically designated property, the Historic Preservation Commission is the review body for this review. Additionally, the following shall apply to all affordable housing development:

1. The proposed units shall be deed-restricted as “for sale” units and transferred to qualified purchasers according to the Aspen Pitkin County Housing Authority Regulations. The developer of the project may be entitled to select the first purchasers, subject to the aforementioned qualifications, pursuant to the Aspen Pitkin County Housing Authority Regulations. The deed restriction shall authorize the Aspen Pitkin County Housing Authority or the City to own the unit and rent it to qualified renters as defined in the Aspen Pitkin County Housing Authority Regulations, as amended.

2. The proposed units may be rental units, including but not limited to rental units owned by an employer, government or quasi-government institution, or non-profit organization if a legal instrument in a form acceptable to the City Attorney ensures permanent affordability of the units. The City encourages affordable housing associated for lodge development to be rental units associated with the lodge operation and contributing to the long-term viability of the lodge.

3. A combination of “for sale” and rental units is permitted.

D. Demolition or redevelopment of multi-family housing. The City's neighborhoods have traditionally been comprised of a mix of housing types, including those affordable by its working residents. However, because of Aspen's attractiveness as a resort environment and because of the physical constraints of the upper Roaring Fork Valley, there is constant pressure for the redevelopment of dwellings currently providing resident housing for tourist and second-home use. Such redevelopment results in the displacement of individuals and families who are an integral part of the Aspen work force. Given the extremely high cost of and demand for market-rate housing, resident housing opportunities for displaced working residents, which are now minimal, will continue to decrease.

Preservation of the housing inventory and provision of dispersed housing opportunities in Aspen have been long-standing planning goals of the community. Achievement of these goals will serve to promote a socially and economically balanced community, limit the number of individuals who face a long and sometimes dangerous commute on State Highway 82, reduce
the air pollution effects of commuting and prevent exclusion of working residents from the City's neighborhoods.

The Aspen Area Community Plan established a goal that affordable housing for working residents be provided by both the public and private sectors. The City and the Aspen/Pitkin County Housing Authority have provided affordable housing both within and adjacent to the City limits. The private sector has also provided affordable housing. Nevertheless, as a result of the replacement of resident housing with second homes and tourist accommodations and the steady increase in the size of the workforce required to assure the continued viability of Aspen area businesses and the City's tourist-based economy, the City has found it necessary, in concert with other regulations, to adopt limitations on the combining, demolition or conversion of existing multi-family housing in order to minimize the displacement of working residents, to ensure that the private sector maintains its role in the provision of resident housing and to prevent a housing shortfall from occurring.

The combining, demolition (see definition of demolition), conversion, or redevelopment of multi-family housing shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on compliance with the following requirements:

1. Requirements for combining, demolishing, converting or redeveloping free-market multi-family housing units: Only one (1) of the following three (3) options is required to be met when combining, demolishing, converting or redeveloping a free-market multi-family residential property. To ensure the continued vitality of the community and a critical mass of local working residents, no net loss of density (total number of units) between the existing development and proposed development shall be allowed.

   a. One-hundred-percent replacement. In the event of the demolition of free-market multi-family housing, the applicant shall have the option to construct replacement housing consisting of no less than one hundred percent (100%) of the number of units, bedrooms and net livable area demolished. The replacement units shall be deed-restricted as resident occupied (RO) affordable housing, pursuant to the Guidelines of the Aspen/Pitkin County Housing Authority. In summary, this option replaces the demolished free-market units with an equal number of units, bedrooms and net livable area of deed-restricted, Resident Occupied (RO) development. An applicant may choose to provide the mitigation units at a lower category designation. Each replacement unit shall be approved pursuant to Subsection C, Affordable housing, of this Section.

   When this one-hundred-percent standard is accomplished, the remaining development on the site may be free-market residential development with no additional affordable housing mitigation required as long as there is no increase in the number of free-market residential units on the parcel. Free-market units in excess of the total number originally on the parcel shall be reviewed pursuant to Section 26.470.100, subsection H or I, Residential Development – sixty (60%) or seventy (70%) percent affordable as required.

   b. Fifty-percent replacement. In the event of the demolition of free-market multi-family housing and replacement of less than one hundred percent (100%) of the number of previous units, bedrooms or net livable area as described above, the applicant shall be
required to construct affordable housing consisting of no less than fifty percent (50%) of the number of units, bedrooms and the net livable area demolished. The replacement units shall be deed-restricted as Category 4 housing, pursuant to the guidelines of the Aspen/Pitkin County Housing Authority. In summary, this option replaces the free-market units – with 50% of the new units, bedrooms and net livable area allowed as free market units and 50% of the new units, bedrooms and net livable area required as deed-restricted, Category 4, affordable housing units. An applicant may choose to provide mitigation units at a lower category designation. Each replacement unit shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.

When this fifty-percent standard is accomplished, the remaining development on the site may be free-market residential development as long as additional affordable housing mitigation is provided pursuant to Section 26.470.080 – General Requirements, and there is no increase in the number of free-market residential units on the parcel. Free-market units in excess of the total number originally on the parcel shall be reviewed pursuant to Section 26.470.100, subsection H or I, Residential Development – sixty (60%) or seventy (70%) percent affordable as required.

c. **One-hundred percent affordable housing replacement.** When one-hundred percent of the free-market multi-family housing units are demolished and are solely replaced with deed-restricted affordable housing units on a site that are not required for mitigation purposes, including any net additional dwelling units, pursuant to Section 26.470.190.C or 26.470.100.C, Affordable Housing; all of the units in the redevelopment are eligible for a Certificate of Affordable Housing Credit, pursuant to Section 26.540 Certificate of Affordable Housing Credit. Any remaining unused free market residential development rights shall be vacated.

2. **Requirements for demolishing deed-restricted, affordable multi-family housing units:** In the event a project proposes to demolish or replace existing deed-restricted affordable housing units, the redevelopment may increase or decrease the number of units, bedrooms or net livable area such that there is no decrease in the total number of employees housed by the existing units. The overall number of replacement units, unit sizes, bedrooms and category of the units shall comply with the Aspen/Pitkin County Housing Authority Guidelines.

3. **Location requirement.** Multi-family replacement units, both free-market and affordable, shall be developed on the same site on which demolition has occurred, unless the owner shall demonstrate and the Planning and Zoning Commission determines that replacement of the units on site would be in conflict with the parcel's zoning or would be an inappropriate solution due to the site's physical constraints.

When either of the above circumstances result, the owner shall replace the maximum number of units on site which the Planning and Zoning Commission determines that the site can accommodate and may replace the remaining units off site, at a location determined acceptable to the Planning and Zoning Commission, or may replace the units by extinguishing the requisite number of affordable housing credits, pursuant to Sec. 26.540, Certificates of Affordable Housing Credit.
When calculating the number of credits that must be extinguished, the most restrictive replacement measure shall apply. For example, for an applicant proposing to replace one 1,000 square foot three-bedroom unit at the 50% rate using credits, the following calculations shall be used:

- 50% of 1,000 square feet = 500 square feet to be replaced. At the Code mandated rate of 1 FTE per 400 square feet of net livable area, this requires the extinguishments of 1.25 credits; or

- A three-bedroom unit = 3.0 FTE’s. 50% of 3.0 FTE’s = 1.50 credits to be extinguished.

Therefore, in the most restrictive application, the applicant must extinguish 1.50 credits to replace a three-bedroom unit at the 50% rate. The credits to be extinguished would be Category 4 credits.

4. Fractional unit requirement. When the affordable housing replacement requirement of this Section involves a fraction of a unit, fee-in-lieu may be provided only upon the review and approval of the City Council, to meet the fractional requirement only, pursuant to Paragraph 26.470.110.C, Provision of required affordable housing via a fee-in-lieu payment.

5. Timing requirement. Any replacement units required to be deed-restricted as affordable housing shall be issued a certificate of occupancy, according to the Building Department, and be available for occupancy at the same time as, or prior to, any redeveloped free-market units, regardless of whether the replacement units are built on site or off site.

6. Redevelopment agreement. The applicant and the City shall enter into a redevelopment agreement that specifies the manner in which the applicant shall adhere to the approvals granted pursuant to this Section and penalties for noncompliance. The agreement shall be recorded before an application for a demolition permit may be accepted by the City.

7. Growth management allotments. The existing number of free-market residential units, prior to demolition, may be replaced exempt from growth management, provided that the units conform to the provisions of this Section. The redevelopment credits shall not be transferable separate from the property unless permitted as described above in Subparagraph 3, Location requirement.

8. Exemptions. The Community Development Director shall exempt from the procedures and requirements of this Section the following types of development involving Multi-Family Housing Units. An exemption from these replacement requirements shall not exempt a development from compliance with any other provisions of this Title:

a. The replacement of Multi-Family Housing Units after non-willful demolition such as a flood, fire, or other natural catastrophe, civil commotion, or similar event not purposefully caused by the landowner. The Community Development Director may
require documentation be provided by the landowner to confirm the damage to the building was in-fact non-willful.

To be exempted, the replacement development shall be an exact replacement of the previous number of units, bedrooms, and square footage and in the same configuration. The Community Development Director may approve exceptions to this exact replacement requirement to accommodate changes necessary to meet current building codes; improve accessibility; to conform to zoning, design standards, or other regulatory requirements of the City; or, to provide other architectural or site planning improvements that have no substantial effect on the use or program of the development. (Also see Chapter 26.312 – Nonconformities.) Substantive changes to the development shall not be exempted from this Section and shall be reviewed as a willful change pursuant to the procedures and requirements of this Section.

b. The demolition of Multi-Family Housing Units by order of a public agency including, but not limited to, the City of Aspen for reasons of preserving the life, health, safety, or general welfare of the public.

c. The demolition, combining, conversion, replacement, or redevelopment of Multi-Family Housing Units which have been used exclusively as tourist accommodations or by non-working residents. The Community Development Director may require occupancy records, leases, affidavits, or other documentation to the satisfaction of the Director to demonstrate that the unit(s) has never housed a working resident. All other requirements of this Title shall still apply including zoning, growth management, and building codes.

d. The demolition, combining, conversion, replacement, or redevelopment of Multi-Family Housing Units which were illegally created (also known as “Bandit Units”). Any improvements associated with Bandit Units shall be required to conform to current requirements of this Title including zoning, growth management, and building codes. Replaced or redeveloped Bandit Units shall be deed restricted as Resident Occupied affordable housing, pursuant to the Guidelines of the Aspen/Pitkin County Housing Authority.

e. Any development action involving demising walls or floors/ceilings necessary for the normal upkeep, maintenance, or remodeling of adjacent Multi-Family Housing Units.

f. A change order to an issued and active building permit that proposes to exceed the limitations of remodeling/demolition to rebuild portions of a structure which, in the opinion of the Community Development Director, should be rebuilt for structural, safety, accessibility, or significant energy efficiency reasons first realized during construction, which were not known and could not have been reasonably predicted prior to construction, and which cause no or minimal changes to the exterior dimensions and character of the building.

E. Expansion or new commercial development. The expansion of an existing commercial building or commercial portion of a mixed-use building or the development of a new
commercial building or commercial portion of a mixed-use building shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on general requirements outlined in Section 26.470.080.

F. New free-market residential units within a multi-family or mixed-use project. The development of new free-market residential units within a multi-family or mixed-use project shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080 and the following criteria:
   a. Affordable housing net livable area shall be provided in an amount equal to at least thirty percent (30%) of the new free-market residential net livable area. (Note that for new free-market units that are included as part of a project subject to section 26.470.100.D, Demolition or redevelopment of multi-family housing, the requirements in said section shall prevail.)
   b. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.
   c. The mitigation unit(s) must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

G. Expansion or new lodge development. The expansion of an existing lodge, the redevelopment of existing lodge which meets the definition of demolition, or the development of a new lodge shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:
   a. Sixty-five percent (65%) of the employees generated by the lodge, timeshare lodge, exempt timeshare units, and associated commercial development, according to Paragraph 26.470.050.B, Employee generation, shall be mitigated through the provision of affordable housing.
   b. Free-market residential units included in a lodge development and which may be rented to the general public as a lodge unit shall be considered lodge units and mitigated through the provision of affordable housing in accordance with this section.
   c. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.
   d. New or redeveloped Boutique Lodges, or the conversion of lodge, residential or commercial uses to boutique lodge is subject to the mitigation standards for commercial uses as provided for in section 26.470.080.D.1 and 3.

Note: A residential project that creates new lots via Subdivision, pursuant to Chapter 26.480, Subdivision, (excepting lot splits) or the replacement of existing multi-family units
following Demolition, pursuant to Section 26.470.100.D, shall have the choice of using either subsection 26.470.100.H or 26.470.100.I, as specified below. These development types require the granting of development allotments.

H. Residential development – sixty percent (60%) affordable. The development of a residential project or an addition of units to an existing residential project, in which a minimum of sixty percent (60%) of the additional units and thirty percent (30%) of the additional Allowable Floor Area is affordable housing deed-restricted in accordance with the Aspen/Pitkin County Housing Authority Guidelines, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:

a. A minimum of sixty percent (60%) of the total additional units and thirty percent (30%) of the project's additional Allowable Floor Area shall be affordable housing. Multi-site projects are permitted. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing, and shall average Category 4 rates as defined in the Aspen/Pitkin County Housing Authority Guidelines, as amended. An applicant may choose to provide mitigation units at a lower category designation.

b. If the project consists of only one (1) free-market residence, then a minimum of one (1) affordable residence representing a minimum of thirty percent (30%) of the project's total Allowable Floor Area and deed-restricted as a Category 4 "for sale" unit, according to the provisions of the Aspen/Pitkin County Affordable Housing Guidelines, shall qualify.

I. Residential development – seventy percent (70%) affordable. The development of a residential project or an addition to an existing residential project, in which seventy percent (70%) of the project's additional units and seventy percent (70%) of the project's additional bedrooms are affordable housing deed-restricted in accordance with the Aspen/Pitkin County Housing Authority Guidelines, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:

a. Seventy percent (70%) of the total additional units and total additional bedrooms shall be affordable housing. At least forty percent (40%) of the units shall average Category 4 rates as defined in the Aspen/Pitkin County Housing Authority Guidelines. The remaining thirty-percent affordable housing unit requirement may be provided as Resident Occupied (RO) units as defined in the Aspen/Pitkin County Housing Authority Guidelines. Multi-site projects are permitted. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.070.4, Affordable housing. An applicant may choose to provide mitigation units at a lower category designation.

b. If the project consists of one (1) free-market residence, then the provision of one (1) RO residence and one (1) category residence shall be considered meeting the seventy-percent unit standard. If the project consists of two (2) free-market residences, then the provision of two (2) RO residences and two (2) category residences shall qualify.
The following types of development shall be approved, approved with conditions or denied by the City Council, pursuant to Section 26.470.060, Procedures for review, and the criteria for each type of development described below. Except as noted, all growth management applications shall comply with the general requirements of Section 26.470.080. Except as noted, all City Council growth management approvals shall be deducted from the respective annual development allotments.

A. Multi-year development allotment. The City Council, upon a recommendation from the Planning and Zoning Commission, shall approve, approve with conditions or deny a multi-year development allotment request based on the following criteria:

1) A project is required to meet at least five (5) of the following criteria.

   a. The proposal exceeds the minimum affordable housing required for a standard project.

   b. The proposed project represents an excellent historic preservation accomplishment. A recommendation from the Historic Preservation Commission shall be considered for this standard.

   c. The proposal furthers affordable housing goals by providing units established as priority through the current Aspen/Pitkin County Housing Authority Employee Housing Regulations and Housing Development Policy and provides a desirable mix of affordable unit types, economic levels and lifestyles (e.g., singles, seniors, families, etc.).

   d. The proposal minimizes impacts on public infrastructure by incorporating innovative, energy-saving techniques. Recommendations from relevant departments shall be considered for this standard. For example, if an applicant proposed an innovative design related to the storm sewer system, a recommendation from the Engineering Department shall be considered.

   e. The proposal minimizes construction impacts beyond minimum requirements both during and after construction. A recommendation from the Engineering and Building Departments shall be considered for this standard.

   f. The proposal maximizes potential public transit usage and minimizes reliance on the automobile by exceeding the requirements in Section 26.515, Off-Street Parking and Mobility. A recommendation from the Transportation and Engineering Departments shall be considered for this standard.

   g. The proposal exceeds minimum requirements of the Residential Demolition and Redevelopment Standards or for LEED certification, as applicable. A recommendation from the Building Department and/or Engineering Department shall be considered for this standard.

   h. The proposal represents a desirable site plan and an architectural design solution.
i. The proposal promotes opportunities for local businesses through the provision of Alley stores or second-tier commercial space.

2) The project complies with all other provisions of the Land Use Code and has obtained all necessary approvals from the Historic Preservation Commission, the Planning and Zoning Commission and the City Council, as applicable.

3) The Community Development Director shall be directed to reduce the applicable annual development allotments, as provided in Section 26.470.120, in subsequent years as determined appropriate by the City Council.

B. Provision of required affordable housing units outside City limits. The provision of affordable housing, as required by this chapter, with units to be located outside the City boundary, upon a recommendation from the Planning and Zoning Commission, shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The off-site housing is within the Aspen Urban Growth Boundary.

2) The proposal furthers affordable housing goals by providing units established as priority through the current Aspen/Pitkin County Housing Authority Guidelines and provides a desirable mix of affordable unit types, economic levels and lifestyles (e.g., singles, seniors and families).

3) The applicant has received all necessary approvals from the governing body with jurisdiction of the off-site parcel.

City Council may accept any percentage of a project's total affordable housing mitigation to be provided through units outside the City's jurisdictional limits, including all or none.

C. Provision of required affordable housing via a fee-in-lieu payment. The provision of affordable housing in excess of 0.10 Full-Time Equivalents (FTEs) via a fee-in-lieu payment, upon a recommendation from the Planning and Zoning Commission shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The provision of affordable housing on site (on the same site as the project requiring such affordable housing) is impractical given the physical or legal parameters of the development or site or would be inconsistent with the character of the neighborhood in which the project is being developed.

2) The applicant has made a reasonably good-faith effort in pursuit of providing the required affordable housing off site through construction of new dwelling units, the deed restriction of existing dwelling units to affordable housing status, or through the purchase of affordable housing certificates.

3) The applicant has made a reasonably good-faith effort in pursuit of providing the required affordable housing through the purchase and extinguishment of Certificates of Affordable Housing Credit.
4) The proposal furthers affordable housing goals, and the fee-in-lieu payment will result in the near-term production of affordable housing units.

The City Council may accept any percentage of a project's total affordable housing mitigation to be provided through a fee-in-lieu payment, including all or none.

D. Essential public facilities. The development of an essential public facility, upon a recommendation from the Planning and Zoning Commission, shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The Community Development Director has determined the primary use and/or structure to be an essential public facility (see definition). Accessory uses may also be part of an essential public facility project.

2) The Planning and Zoning Commission shall determine the number of employees generated by the essential public facility pursuant to Section 26.470.050.C, Employee generation review.

3) Upon a recommendation from the Community Development Director and the Planning and Zoning Commission, the City Council may assess, waive or partially waive affordable housing mitigation requirements as is deemed appropriate and warranted for the purpose of promoting civic uses and in consideration of broader community goals.

E. Preservation of significant open space parcels. On a project-specific basis and upon a recommendation from the Planning and Zoning Commission, the City Council shall approve, approve with conditions or deny development of one (1) or more residences in exchange for the permanent preservation of one (1) or more parcels considered significant for the preservation of open space. The preservation parcel may lie outside the City jurisdiction. The exempted residential units shall be deducted from the respective annual development allotment established pursuant to Section 26.470.040.B. The exempted residential units shall provide affordable housing mitigation, pursuant to the applicable requirements of Section 26.470. This exemption shall only apply to the specific residences approved through this provision. Other residences within a project not specifically exempted through this provision shall require growth management approvals pursuant to this Chapter. The criteria for determining the significance of a preservation parcel and the associated development rights to be granted may include:

1) The strategic nature of the preservation parcel to facilitate park, trails or open space objectives of the City. This shall include a recommendation from the City of Aspen Open Space Acquisition Board.

2) Identification of the preservation parcel as desirable for preservation in any adopted master plans of the City or following a recommendation from the Parks and Open Space Department.

3) Proximity and/or visibility of the preservation parcel to the City.
4) The development rights of the preservation parcel, including the allowed uses and intensities and impacts associated with those uses if developed to the maximum.

5) The proposed location of the parcel being granted growth management approvals and the compatibility of the resulting uses and intensities of development with the surrounding neighborhood, including the impacts from the specified method of providing affordable housing mitigation. The new residences shall be restricted to the underlying zoning restrictions of the property on which they lie unless additional restrictions are necessary in order to meet this criterion.

6) The preservation parcel shall be encumbered with a legal instrument, acceptable to the City Attorney, which sterilizes the parcel from further development in perpetuity.

F. Reduction in lodge units. The reduction of units in an existing or approved Lodge or Boutique Lodge shall be reviewed pursuant to the standards listed below. Review shall be by City Council pursuant to Section 26.470.060(C) Step Two. Properties ceasing all lodging operations shall not be subject to this review. Physical changes to the property may be required for compliance with zoning limitations.

   a. The project shall comply with the review standards outlined in Section 26.425.035, Conditional Use – Standards for Boutique Lodge Uses – but shall not be subject to a Conditional Use review unless required by the underlying zone district or overlay zone district.

   b. The proposed use meets the definition of Boutique Lodge or Lodge in section 26.104.110, as applicable.

   c. The proposed reduction will likely result in a product that meets customer demand. The lodge may provide documentation to indicate their targeted consumer’s lodging expectations.

   d. The proposed reduction will not likely result in the property being used as a private residence. The city may request assurances that the lodge is not being converted to a private residence through a development agreement, or the like.

26.470.120. Yearly Growth management accounting procedures.
A. General. The Community Development Director shall maintain an ongoing account of available, requested and approved growth management allocations for all land uses identified in Table 1 of Section 26.470.020. Allotments shall be considered allocated upon issuance of a development order for the project. Unless specifically not deducted from the annual development allotment, all units of growth shall be included in the accounting. Approved affordable housing units shall be counted regardless of the unit being provided as mitigation or otherwise.

B. Yearly Allotment Carry-Forward Procedures. At the conclusion of each growth management year, the Community Development Director shall prepare a summary of growth allocations. The City Council, at its first regular meeting of the growth management year, shall review the prior year's growth summary, consider a recommendation from the Community Development Director, and shall, via adoption of a resolution, establish the number of unused and unclaimed allotments to be carried forward.
and added to the annual allotment. A public hearing is not required and this action may be completed as part of City Council’s consent calendar.

The City Council may carry forward any portion of the previous year's unused allotment, including all or none. The City Council shall consider the following criteria in determining the allotments to be carried forward:

1) The community's growth rate over the preceding five-year period.
2) The ability of the community to absorb the growth that could result from a proposed development utilizing accumulated allotments, including issues of scale, infrastructure capacity, construction impacts and community character.
3) The expected impact from approved developments that have obtained allotments, but that have not yet been built.

There is no limit, other than that implemented by the City Council, on the amount of potential growth that may be carried forward to the next year.

Any allotments awarded to a project which does not proceed and which are considered void shall constitute unused allotments and may be considered for allotment roll-over by the City Council for the year from which they were assigned. If a project decides not to proceed with the development after Council’s decision on roll-over allotments for that year, then those allotments shall be considered expired and no longer available. Allotments shall be considered vacated by a property owner upon written notification from the property owner or upon expiration of the development right pursuant to Section 26.470.040.D, Expiration of growth management allotments.

Applications for growth management shall include the following:
1) The general application information required in Common development review procedures, Chapter 26.304.
2) A site-improvement survey meeting the requirements of Title 29, Engineering Design Standards.
3) A description of the project and the number and type of the requested growth management allotments.
4) A detailed description and site plan of the proposed development, including proposed land uses, densities, natural features, traffic and pedestrian circulation, off-street parking, open space areas, infrastructure improvements, site drainage and any associated off-site improvements.
5) A description of the proposed affordable housing and how it provides adequate mitigation for the project and conforms to the Aspen/Pitkin County Housing Authority Guidelines.
6) A statement specifying the public facilities that will be needed to accommodate the proposed development, proposed infrastructure improvements and the specific assurances that will be made to ensure that the public facilities will be available to accommodate the proposed development.
7) A written response to each of the review criteria for the particular review requested.

8) Copies of required approvals from the Planning and Zoning Commission, Historic Preservation Commission and the City Council, as necessary.


In reconstruction scenarios, growth management allotments and any other reconstruction rights that this Code establishes, may continue, subject to the following limitations.

A. An applicant may propose to demolish and then delay the reconstruction of existing development for a period not to exceed one (1) year. To comply with this limitation and maintain the reconstruction right, an applicant must submit a complete building permit application for reconstruction on or before the one-year anniversary of the issuance date of the demolition permit. The City Council may extend this deadline upon demonstration of good cause. The continuation of growth management allotments in a reconstruction scenario for single-family and duplex development are not subject to this time limitation.

B. Single-family and duplex development receive no credit for existing Mitigation Floor Area for the purposes of determining affordable housing mitigation in redevelopment scenarios that meet the definition of Demolition – per 26.580. The exception to this is when a single-family or duplex is demolished by an act of nature or through any manner not purposefully accomplished by the owner.

C. Applicants shall verify existing conditions prior to demolition with the City Zoning Officer. An applicant's failure to accurately document existing conditions prior to demolition and verify reconstruction rights with the City Zoning.

D. Reconstructed buildings shall comply with applicable requirements of the Land Use Code, including but not limited to Chapter 26.312, Nonconformities, and Chapter 26.710, Zone Districts.

E. Any reconstruction rights shall be limited to reconstruction on the same parcel or on an adjacent parcel under the same ownership.

F. Residential redevelopment credits may be converted to lodge redevelopment credits by right. The conversion rate shall be three (3) lodge units per each one (1) residential unit. This is a one-way conversion, and lodge credits may not be converted to residential credits.

26.470.150. Amendment of a growth management development order.

A. Insubstantial amendment. An insubstantial amendment to an approved growth management development order may be authorized by the Community Development Director if:

1) The change conforms to all other provisions of the Land Use Code and does not exceed approved variations to the residential design standards, require an amendment to the commercial design review approval or such variations or amendments have been approved.

2) The change does not alter the number, size, type or deed restriction of the proposed affordable housing units, subject to compliance with the Aspen/Pitkin County Housing Authority Guidelines.
3) The change is limited to technical or engineering considerations discovered prior to or during actual development that could not reasonably be anticipated during the review process or any other minor change that the Community Development Director finds has no substantial effect on the conditions and representations made during the original project review.

B. **Substantial amendment.** All other amendments to an approved growth management development order shall be reviewed pursuant to the terms and procedures of this Chapter. Allotments granted shall remain valid and applied to the amended application, provided that the amendment application is submitted prior to the expiration of vested rights. Amendment applications requiring additional allotments or allotments for different uses shall obtain those allotments pursuant to the procedures of this Chapter. Any new allotments shall be deducted from the growth management year in which the amendment is submitted.

26.470.160. **Appeals.**

A. **Appeal of adverse determination by Community Development Director.** An appeal made by an applicant aggrieved by a determination made by the Community Development Director on an application for administrative review shall be to the Planning and Zoning Commission. The appeal procedures set forth at Chapter 26.316 shall apply. The Planning and Zoning Commission may reverse, affirm or modify the decision or determination of the Community Development Director based upon the application submitted to the Community Development Director and the record established by the Director's review. The decision of the Planning and Zoning Commission shall constitute the final administrative action on the matter.

B. **Appeal of adverse determination by Planning and Zoning Commission.** An appeal made by an applicant aggrieved by a determination made by the Planning and Zoning Commission on an application for Planning and Zoning Commission review shall be to the City Council. The appeal procedures set forth at Chapter 26.316 shall apply. The City Council may reverse, affirm or modify the decision or determination of the Planning and Zoning Commission based upon the application submitted to the Planning and Zoning Commission and the record established by the Commission's review. The decision of the City Council shall constitute the final administrative action on the matter.

C. **Insufficient development allotments.** Any property owner within the City who is prevented from developing a property because that year's development allotments have been entirely allocated may appeal to the City Council for development approval. An application requesting allotments must first be denied due to lack of necessary allotments. The appeal procedures set forth at Chapter 26.316 shall apply. The City Council may take any such action determined necessary, including but not limited to making a one-time increase of the annual development allotment sufficient to accommodate the application.
Section 8: Land Use Code Sections 26.540.040; 26.540.050; 26.540.060; 26.540.070; and 26.540.080. Certificates of Affordable Housing Credits shall be rescinded and readopted as follows:

Chapter 26.540
CERTIFICATES OF AFFORDABLE HOUSING CREDIT

26.540.040 Authority
The Community Development Director, in accordance with the procedures, standards, and limitations of this Chapter and of Chapter 26.304, Common Development Procedures, shall approve, approve with conditions, or deny an application for the establishment of a Certificate of Affordable Housing Credit for projects that have been previously approved, or are being reviewed concurrently with 26.470.090.C. The Planning and Zoning Commission (or Historic Preservation Commission) shall approve, approve with conditions, or deny an application being reviewed concurrently with 26.470.100.C.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §)

26.540.050 Application
All applications shall include the information required under Chapter 26.304, Common Development Review Procedures. In addition, all applications must also include the following information.

1. The net livable square footage of each unit and proposed number of bedrooms.

2. If applicable, the conditions under which reductions from net minimum livable square footage requirements are requested according to Aspen Pitkin County Housing Authority Guidelines and a copy of the recommendation from APCHA related to the units.

3. Proposed Category designation for each unit.

4. Proposed Category Designation of sale or rental restriction for each unit. This should include and conditions that APCHA will require related to either the sale and/or rental of the units.

5. Proposed employees housed by the affordable housing units in increments of no less than one-one-hundredth (.01) according to Section 26.470.050.D (Table 4, FTEs Housed).

6. For projects that include affordable housing units within a designated structure, provide a calculation for the Credits generated within the designated structure that includes a multiplier of 1.2 x the employees housed per paragraph 5, immediately above. This multiplier recognizes the additional costs related to preservation efforts of designated structures. The multiplier does not apply to units/Credits established in non-historic structures in the same project.

7. For projects that are converting (without demolition) existing free-market (single family, duplex, or multi-family) units into Category, deed-restricted units for the purpose of establishing affordable housing credits, the application shall additionally contain the following:
   a. Recommendation from APCHA that identifies the development standards for a project or unit being accepted into a deed restriction by APCHA. The application should specifically reference APCHA’s evaluation of the property and any necessary improvements to the
property necessary to meet APCHA requirements. Eventual issuance of credits will be conditioned on fulfilling the identified development requirements.

b. A precise evaluation, conducted by an architect or other qualified party that identifies the existing net livable area of the unit is required. If a unit is below APCHA’s minimum net livable area based on the number of bedrooms (as established by APHCA’s Guidelines), a 400 square feet per FTE calculation will be utilized instead of the bedroom count, in determining the number of Credits that will be generated by the project.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 11-2021, §2)

26.540.060 Procedures for establishing an affordable housing credit
A development application to establish a certificate of Affordable Housing Credit shall be reviewed pursuant to the Common Development Review Procedures set forth at Chapter 26.304, and the following procedures and standards.

A. Administrative Review by the Community Development Director for projects that have received previous GMQS approval for the establishment of affordable housing, or in a combined review with projects that are being reviewed administratively under 26.470.090.D.

1. **Purpose:** To determine if the application meets the standards for authorizing establishment of a Certificate of Affordable Housing Credit.
2. **Process:** The Community Development Director shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director.
3. **Standards of review:** 26.540.070
4. **Form of decision:** The Community Development Director decision shall be documented in a recorded Notice of Approval. The Notice of Approval may include a description or diagram of the affordable housing and any necessary conditions of approval.
5. **Notice requirements:** The requirements of 26.304.080 shall apply.

B. Planning and Zoning Commission (or Historic Preservation Commission) review for projects that are being reviewed under 26.470.100.C

1. **Purpose:** To determine if the application meets the standards for authorizing establishment of a Certificate of Affordable Housing Credit.
2. **Process:** The Planning and Zoning Commission shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director.
3. **Standards of review:** 26.540.070
4. **Form of decision:** Planning and Zoning Commission decision shall be by resolution. The resolution may include a description or diagram of the affordable housing.
5. Notice requirements: The requirements of 26.304.080 shall apply. No public hearing notice is required.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

26.540.070 Review criteria for establishing an affordable housing credit
An Affordable Housing Credit may be established by the Community Development Director or Planning and Zoning Commission if all of the following criteria are met. The proposed units do not need to be constructed prior to this review.

A. The proposed affordable housing unit(s) comply with the review standards of Section 26.470.080.D.7.a-g.

B. The affordable housing unit(s) are not an obligation of a Development Order and are not otherwise required by this Title to mitigate the impacts of development.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 11-2021, §3)

26.540.80 Procedure for issuing a certificate of affordable housing credit
A. The Community Development Director Notice of Approval or the Planning and Zoning Commission Resolution in approving the establishment of Affordable Housing Credits for a project shall identify one of two possible paths for the eventual issuance of established credits:

1. Upon completion of the project and the presentation of a Certificate of Occupancy and APCHA deed restriction for the completed affordable units, 100% of the approved Certificates shall be issued in a form prescribed by the Community Development Director; or,

2. Upon presentation of a performance bond, letter of credit, or other financial instrument acceptable to the City Attorney in guaranteeing the eventual completion of the project, a project developer will receive phased issuance of Affordable Housing Credits per the following schedule:
   - 30% of approved Credits at completion of foundation inspection
   - 30% of approved Credits at completion of framing / roofing inspection
   - 40% of approved Credits at presentation of Certificate of Occupancy and the APCHA deed restriction

3. The bond, letter of credit, or other financial instrument shall be presented and reviewed with the submission of the building permit and will be for an amount of 100% of the total project valuation.

4. Approval of phased issuance of Affordable Housing Credits must be included in the Notice of Approval or Planning and Zoning Commission Resolution. No phased issuance shall occur until the City Attorney has reviewed and approved the provided financial instrument.

5. If phased issuance is approved by Notice of Approval or Resolution and the project developer determines ultimately not to pursue the phased issuance, Credits will be issued per Paragraph 1 at the time of the completed project.

B. Upon successful completion of the requirements of Paragraph 1 or 2 above, the issued Certificate of Affordable Housing Credit shall include the following information:
1. A number of the Certificate in chronological order of their issuance.
2. Parcel identification number, legal address and the street address of the affordable housing.

The Category Designation and number of employees housed by the affordable housing units, according to Section 26.470.050.D – Employees Housed; in increments of no less than one-one-hundredths (.01).

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 34-2015, §3; Ord. No. 11-2021, §4)

Section 9:

MISCELLANEOUS SUPPLEMENTAL REGULATIONS

26.575.020 Calculations and Measurements
D. Measuring Floor Area. In measuring Floor Areas (Inclusive of Gross, Allowable, Mitigation, and Floor Area Ratio (FAR), the following applies:
   1. General. Floor area shall be attributed to the lot or parcel upon which it is developed. In measuring a building for the purposes of calculating Floor Areas, there shall be included all areas within the surrounding exterior walls of the building. When measuring from the exterior walls, the measurement shall be taken from the exterior face of framing, exterior face of structural block, exterior face of straw bale, or similar exterior surface of the nominal structure excluding

Figure 2: Measuring to Face of Framing
sheathing, vapor barrier, weatherproofing membrane, exterior-mounted insulation systems, and excluding all exterior veneer and surface treatments such as stone, stucco, bricks, shingles, clapboards or other similar exterior veneer treatments. (Also, see setbacks.)

Note: In measuring Floor Area for the purposes of calculating employee generation and affordable housing mitigation for single-family, duplex, and multi-family development, a distinct calculation is made for Mitigation Floor Area. Please refer to Section 26.575.020.D.2 below to determine which Floor Area exclusions shall be deducted from the Gross Floor area to determine the Mitigation Area total.

Measuring Allowable Floor Area shall include the following exclusions and exemptions included in Sections 26.575.020.D.3 - 26.575.020.D.15.

2. Floor Area Definitions and Purpose.

v. **Floor area.** A general term used to describe the sum total of the gross horizontal areas of each story of the building measured from the exterior walls of the building. Floor Area is distinct from the specific definitions below, but may include Gross Floor Area, Mitigation Floor Area, Allowable Floor Area. See specific definitions of each type below for additional clarity.

i. **Floor Area, Gross.** Gross floor area is the total horizontal area of all floors in a building, and of all floors in any accessory structure on the same lot, measured from the exterior face framing of the exterior walls (See Section 26.575.020.D), or the centerline of a common wall separating two buildings, but excluding unenclosed balconies. This floor area measurement is the total floor area in which Mitigation Floor area and Allowable floor area exclusions are deducted from as established in Section 26.575.020.D. None of the Floor Area Exemptions in Section 26.575.020.D are considered in this calculation.

Gross Floor Area should be calculated and documented in any land use or building permit application.

ii. **Floor Area, Allowable.** – The total amount of floor area allowed on a property based on the limitations and allowances in the applicable zone district in Title 700 and calculated pursuant to Section 26.575.020.D, Calculations and Measurements. All exemptions and methodology outlined in Sections 26.575.020.D.3-16 apply to this calculation.

iii. **Floor Area, Mitigation** – The Gross Floor Area of a structure minus exclusions included in Section 26.575.020.D. This floor area measurement is used to assess required affordable housing mitigation for a given project. For the determination of Mitigation Floor Area, a number of the calculation methodologies listed in subsections 26.575.020.D.3 – 16, below, are *not* taken. The following table lists the code sections that are not applied to the calculation of Mitigation Floor Area. These areas are counted in their entirety in the Mitigation Floor Area.
iv. **Floor Area, Non-unit space.** The area, considering all inclusions and exclusions as calculated herein, within a lodge, hotel or mixed use building that is commonly shared. (Also see Calculations and Measurements Section 26.575.020.D.15).

v. **Floor area ratio (FAR).** The total floor area of all structures on a lot divided by the lot area.

3. **Vertical circulation.** When calculating vertical circulation, the circulation element shall be counted as follows:
   a) For stairs and elevators, the area of the feature shall be projected down and counted on the lower of the two levels connected by the element and not counted as Floor Area on the top-most interior floor served by the element.
   b) When a stairway or elevator connects multiple levels, the area of the feature shall be counted on all levels as if it were a solid floor except that the area of the feature shall not be counted as Floor Area on the top-most interior level served by the element.
   c) Mechanical and overrun areas above the top-most stop of an elevator shall not be counted as Floor Area. Areas below the lowest stop of an elevator shall not be counted as Floor Area.

4. **Attic Space and Crawl Space.** Unfinished and uninhabitable space between the ceiling joists and roof rafters of a structure or between the ground and floor framing which is accessible only as a matter of necessity is exempt from the calculation of Floor Area as described below. Drop ceilings are not included in the height measurement for crawl spaces.
   a. Crawl spaces that meet the following are exempt from Floor Area calculations:
      i. 6 feet or less in height measured between the hard floor structure and floor framing; and
      ii. Accessible only through an interior floor hatch, exterior access panel, or similar feature; and
      iii. Are the minimum height and size reasonably necessary for the mechanical equipment.
   1. Stacked crawl spaces do not qualify for the Floor Area exemption. Crawl spaces greater than 6 feet in height count toward Floor Area in accordance with Section 26.575.020.D.9 Subgrade areas.
2. Attic space that is conveniently accessible and is either habitable or can be made habitable shall be counted in the calculation of Floor Area.

3. Areas of an attic level with thirty (30) vertical inches or less between the finished floor level and the finished ceiling shall be exempt, regardless of how that space is accessed or used.

4. If any portion of the attic or crawl space of a structure is to be counted, then the entire room shall be included in the calculation of Floor Area.

5. Examples of attic and crawl spaces that do and do not count toward Floor Area:
   a. An attic area created above a “hung” or “false” ceiling is exempt.
   b. A crawl space that is six (6) feet in height that is accessible only through an interior hatch counts.
   c. An attic area accessible only through an interior pull-down access ladder is exempt.
   d. An unfinished attic space or an unfinished crawl space over 4 feet in height which has convenient access is counted.
   e. A crawl space that is 6 feet in height, is accessible only through an interior hatch and is a reasonable size to accommodate the mechanical equipment is exempt.

5. Decks, Balconies, Loggias, Gazebos, Trellis, Exterior Stairways, and non-Street-facing porches.
   a) The calculation of the Floor Area of a building or a portion thereof shall not include decks, balconies, trellis, exterior stairways, non-Street facing porches, gazebos and similar features, unless the area of these features is greater than fifteen percent (15%) of the allowable floor area for the property and the use and density proposed, or as otherwise exempted by this Section.
   b) If the area of these features exceeds fifteen percent (15%) of the property’s allowable Floor Area (for that use and density proposed) only the areas in excess of the fifteen percent (15%)
shall be attributed towards the allowable Floor Area for the property. The allowable Floor Area for the purpose of this calculation refers to the Floor Area calculation based on the Net Lot Area, as defined in this chapter or as prescribed by a site-specific approval, with the following exceptions: Floor Area bonus, or established or extinguished Transferrable Development Right certificates are not included.

c) Decks, balconies, exterior stairways, trellis, and similar features of a mixed use, commercial, or lodge building located within the Commercial Core (CC) Zone District, Mixed Use (MU) Zone District, the Commercial (C-1) Zone District, the Neighborhood Commercial (NC) Zone District, the Lodge (L) Zone District, or the Commercial Lodge (CL) Zone District shall be exempt from Floor Area calculations.

d) For free-market residential units located within the Mixed Use (MU) Zone District, Commercial Core (CC) Zone District, and Commercial (C-1) Zone District, at-grade patios, decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features may only be expanded up to 15% of the total free-market residential floor area. Such free-market units shall not be able to utilize any other exemptions to floor area outlined in Section 26.575.020(D).

e) The area of the following features count toward deck calculation: railing, permanently fixed seating, permanently fixed grills, and similar permanently fixed features. Permanent planter boxes and green roofs that are a minimum of thirty (30) inches in height above or below the deck surface, measured from the deck surface to the bottom of the planter box or green roof surface, and that are permanently built into the structure of the roof or deck are not included in the deck calculation. Permanent planter boxes and green roofs that do not meet the minimum requirement count toward deck calculation.

f) Unenclosed areas beneath decks, balconies, and exterior stairways shall be exempt from Floor Area calculations unless that area is used as a carport. (See provisions for garages and carports, Subsection 7.) Enclosed and unconditioned areas beneath porches, gazebos, and decks or balconies when those elements have a finished floor level within thirty (30) inches of the surrounding finished grade shall be exempt from Floor Area calculations regardless of how that area is used.
6. **Front Porches.** Porches on Street-facing façade(s) of a structure developed within thirty (30) inches of the finished ground level shall not be counted towards allowable Floor Area. Otherwise, these elements shall be attributed to Floor Area as a Deck.

7. **Patios.** Patios developed at or within six (6) inches of finished grade shall not be counted towards Floor Area. These features may be covered by roof overhangs or similar architectural projections of up to four feet, as measured from the face of the building, and remain exempt from Floor Area calculations. When roof overhangs or similar architectural projections exceed four feet, the entire feature counts toward Floor Area. Railing, permanently fixed seating, permanently fixed grills, and similar permanently fixed features located on patios shall count toward deck calculation.

8. **Garages and carports.** For all multi-family buildings, parcels containing more than two residential units, and residential units located within a mixed-use building, 250 square feet of the garage or carport area shall be excluded from the calculation of floor area per residence on the parcel. All garage and carport area in excess of 250 square feet per residence shall be attributed towards Floor Area and Floor Area Ratio with no exclusion. Garage and carport areas for properties containing no residential units shall be attributed towards Floor Area and Floor Area Ratio with no exclusion.

In the R-15B Zone District, garage and carport areas shall be excluded from the calculation of Floor Area up to a maximum exemption of five-hundred-square-foot total for the parcel.

In zone districts other than the R-15B Zone District, properties containing solely a Single-Family, two single-family residences, or a Duplex, the garage and carport area shall be excluded from the calculation of Floor Area as follows:
For any property abutting an alley or private road entering at the rear or side of the property, the garage or carport area shall only be excluded from floor area calculations as described above if the garage or carport is accessed from said alley or road. If an alley or private road does exist and is not utilized for garage or carport access, the garage or carport area shall be attributed towards Floor Area calculations with no exclusion. If an alley or private road does not abut the property, the garage or carport area shall be excluded from floor area calculations as described above.

9. **Subgrade areas.** Subgrade or partially subgrade levels of a structure are included in the calculation of Floor Area based on the portion of the level exposed above grade.

The percentage of the gross area of a partially subgrade level to be counted as Floor Area shall be the surface area of the exterior walls exposed above natural or finished grade, whichever is lower, divided by the total exterior wall area of that level. Subgrade stories with no exposed exterior surface wall area shall be excluded from floor area calculations.

Example: If the walls of a 2,000 square foot level are forty percent (40%) exposed above the lower of natural or finished grade then forty percent (40%) of that level, 800 square feet is counted as Floor Area.

<table>
<thead>
<tr>
<th>Size of Garage or Carport</th>
<th>Area excluded per primary dwelling unit (not including Accessory Dwelling Units or Carriage Houses)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 0 to 250 square feet</td>
<td>100% of the area</td>
</tr>
<tr>
<td>Next 251 to 500 square feet</td>
<td>50% of the area</td>
</tr>
<tr>
<td>Areas above 500 square feet</td>
<td>No area excluded.</td>
</tr>
</tbody>
</table>
For the purposes of this section, the exterior wall area to be measured shall be the interior wall area projected outward and shall not include exterior wall areas adjacent to foundation or floors of the structure. Floor structure does not include drop ceilings.
When considering multi-level subgrade spaces, adjacent interior spaces shall be considered on the same story if the vertical separation between the ceilings of the spaces is less than 50% of the distance between the floor and ceiling of either space.

When a partially subgrade space also contains a vaulted ceiling within a pitched roof, the wall area shall include the area within the gable of the roof.

For garages that are part of a subgrade area, the garage exemption is taken from the total gross below-grade area prior to calculating the subgrade exemption. For example, a 2,000 square
Foot story containing a 350 square foot garage which is 40% above grade, the calculation shall be as follows:

Garage exemption – the first 250 square feet is exempt and the next 100 square feet counts 50% or 50 square feet = 300 square feet of the garage which is exempt.

Subgrade exemption – 2,000 gross square feet minus 300 square feet of exempt garage space = 1,700 gross square feet multiplied by 40% = 680 square feet of that level which counts towards allowable Floor Area.

For subgrade spaces with adjoining crawl spaces exempt pursuant to Section 26.575.020.D.3, a line is drawn to separate the basement space from the crawl space for the purposes of calculating the perimeter and gross area measurements. Exempt crawl space is not included in the perimeter, wall area, and floor area measurements.

Single-family and duplex structures shall contain no more than one floor level below finished grade. A basement with a stepped floor is allowed. The finished floor level shall be no more than 15 feet below finished grade. A crawl space below the basement, compliant with the limitations of Section 26.575.020.D.3, shall be exempt from this depth limitation.

When it is necessary to determine the floor area of an individual unit within a duplex or multi-family building, it shall be calculated from the exterior walls to the centerline of any party walls it shares with other units.

In order to determine the subgrade area of an individual unit in a duplex or multi-family building that applies toward Floor Area calculations, the subgrade gross square footage of an individual unit shall be multiplied by the percentage of exterior walls exposed above grade for the entire structure.

Example:

a. The subgrade exemption for the structure is 40% (exposed wall divided by total wall).

b. Unit A has 500 square feet below grade, measured from exterior wall to the centerline of the party walls it shares with Unit B. Unit B has 900 square feet.

c. 0.40 (entire duplex exposed percentage) x 500 (Unit A subgrade gross square footage) = 200 square feet subgrade floor area that applies toward the total Floor Area for Unit A. 0.40 (entire duplex exposed percentage) x 900 (Unit B subgrade gross square footage) = 360 square feet subgrade floor area that applies toward the Floor Area for Unit B.
10. Accessory Dwelling Units and Carriage Houses. An accessory dwelling unit or carriage house shall be calculated and attributed to the allowable floor area for a parcel with the same inclusions and exclusions for calculating floor area as defined in this Section.

11. Permanently Affordable Accessory Dwelling Units and Carriage Houses. One hundred percent (100%) of the area of an Accessory Dwelling Unit or Carriage House which is detached from the primary residence and deed-restricted as a "for sale" affordable housing unit and transferred to a qualified purchaser in accordance with the Aspen/Pitkin County Housing Authority Guidelines, as amended, shall be excluded from the calculation of floor area, up to a maximum exemption of one thousand two hundred (1,200) square feet per parcel.

In addition, the allowable floor area of a parcel containing such a permanently affordable Accessory Dwelling Unit or Carriage House shall be increased in an amount equal to fifty percent (50%) of the floor area of the Accessory Dwelling Unit or Carriage House, up to a maximum bonus of six hundred (600) square feet per parcel.

12. Sheds, Storage Areas, and similar Accessory Structures. Sheds, storage areas, greenhouses, and similar uninhabitable accessory structures, not within a garage, are exempt from floor area limitations up to a maximum exemption of thirty-two (32) square feet per residence. Storage areas within a garage shall be treated as garage space eligible for the garage exemption only. Accessory structures thirty-six inches or less in height, as measured from finished grade, shall be exempt from Floor Area calculations (also see setback limitations). Accessory structures that
are both larger than thirty-two square feet per primary residence and more than thirty-six inches in height shall be included in their entirety in the calculation of Floor Area. Properties which do not contain residential units are not eligible for this Floor Area exemption.

13. **Historic Sheds and Outbuildings.** The Community Development Director may provide a parcel containing an uninhabitable and limited function historic shed, outbuilding, or similar historic artifact with a Floor Area exemption to accommodate the preservation of the historic resource. The shed or outbuilding must be considered a contributing historic resource of the property. Functional outbuildings, such as garages, art studios, home offices, and the like shall not be eligible for an exemption. The Director may consult the Historic Preservation Commission prior to making a determination. The Director may require the property’s potential to receive Floor Area bonuses be reduced to account for the structure. The exemption shall be by issuance of a recordable administrative determination and shall be revocable if the artifact is removed from the property.

14. **Wildlife-Resistant Trash and Recycling Enclosures.** Wildlife-resistant trash and recycling enclosures located in residential zone districts are exempt from floor area requirements of the zone district regulations if the enclosure is the minimum reasonably necessary to enclose the trash receptacles in both height and footprint, is an unconditioned space not located inside other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant dumpster enclosures located in commercial, mixed-use, or lodging zone districts are not exempt from floor area requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas.

Enclosures shall be located adjacent to the alley if an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic Preservation Commission, enclosures shall not abut or be attached to an historic structure. Enclosures may abut other non-historic structures.

15. **Allocation of Non-Unit Space in a mixed-use building.** In order to determine the total floor area of individual uses in a mixed-use building, the floor area for non-unit space, which is common to all uses on the property, shall be allocated on a proportionate basis to the use categories outlined in the subject zone district's FAR schedule. To determine the non-unit space allocation in a building, a calculation of the building’s Gross Floor Area is required. The building's Gross Floor Area, minus all non-unit space, shall be divided proportionately amongst the individual use categories in a building. These numbers shall then be calculated as a percent of the Gross Floor Area number.

Garages, including subgrade garages, and carports in mixed use buildings that contain residential units are considered non-unit space.

When a feature is used exclusively by one use, the space shall be attributed to the floor area for that use.

**Gross floor area calculation:**

For instance, if a building was comprised of the following square footages:

- 2,000 sq. ft. commercial floor area (including 500 sq. ft. basement)
- + 4,000 sq. ft. free-market residential floor area
+ 2,000 sq. ft. affordable housing floor area
+ 1,000 sq. ft. non unit floor area (1,250 sq. ft.- 250 sq. ft. for exempt garage)
= 9,000 sq. ft. gross floor area

Percentage of use category per building floor area:

Then the total unit floor area in the building, not including non-unit space, would be eight thousand (8,000) square feet floor area (9,000 – 1,000). Using the allocation of non-unit space standard, the uses account for the following percentages of the total unit floor area:

Commercial floor area = 25% \[\frac{2,000}{8,000} \times 100\]
Free-market residential floor area = 50% \[\frac{4,000}{8,000} \times 100\]
Affordable housing floor area = 25% \[\frac{2,000}{8,000} \times 100\]

Application of use percentages to non-unit floor area:

A proportionate share of the non-unit floor area shall then be allocated towards each use category. Floor area exemptions that apply to non-unit space, for example a garage or top level of a shared stairway tower, are deducted from the total non-unit floor area before allocating to each use category. Subgrade levels that do not count toward floor area shall not be included in the use category total when calculating floor area. This provision shall apply to all zone districts permitting mixed-use buildings.

Therefore, the one thousand (1,000) square feet of non-unit space is allocated to the different uses as follows:

Commercial floor area = 25% x 1,000 sq. ft. = 250 sq. ft.
Free-market residential floor area = 50% x 1,000 sq. ft. = 500 sq. ft.
Affordable housing floor area = 25% x 1,000 sq. ft. = 250 sq. ft.

The floor area for each use is as follows:

Commercial floor area: 1,500 sq. ft. (2,000 sq. ft. total minus 500 sq. ft. exempt basement) + 250 sq. ft. = 1,750 sq. ft.
Free market residential floor area: 4,000 sq. ft. + 500 sq. ft. = 4,500 sq. ft.
Affordable housing floor area: 2,000 sq. ft. + 250 sq. ft. = 2,250 sq. ft.

Examples:

1. Circulation features, for example hallways, that are shared (used by multiple uses) are considered non-unit space.

2. A shared elevator that serves all levels of a mixed use building (even if the top level terminates within a residential unit) is considered non-unit space.

3. Circulation that is specific to a use, for example a private elevator that only serves the residential component (i.e. it does NOT provide access to commercial levels), is allocated to the floor area of the specific use and is not considered non-unit space.
4. A stairway that is interior to a single unit, which for example connects a two level commercial space, counts toward commercial floor area.

16. **Airlocks.** Permanently installed interior airlock spaces are exempt from the calculation of Floor Area Ratio and allowable Floor Area up to a maximum exemption of 100 square feet per building. This exemption only applies to buildings containing non-residential uses and does not apply to single-family, duplex, or multi-family buildings.

**E. Measuring Setbacks.**

1. **General.** Required setbacks shall be unoccupied and unobstructed within an area extending horizontally from the parcel boundary to the setback line and vertically above and below grade, excepting allowed projections as described below.

   a. For new construction, and for redevelopment projects following a Demolition of a structure for any use type, required setbacks shall be measured perpendicularly from all points of the parcel boundary to the outermost exterior of a structure, including all exterior veneer such as brick, stone, or other exterior treatments, but excluding allowed projections as further described in subsection E.5., below. (See Figure 8.a)

![Figure 8.a: Setback Measurement (New Construction)](image-url)
b. For existing single-family, duplex, and multi-family residential structures, that propose energy efficiency or fire protection upgrades on the exterior of the structure, required setbacks shall be measured perpendicular from all points of the parcel boundary to the exterior face of framing of a structure, to a maximum of eight (8) inches of all exterior veneer such as brick, stone or other exterior treatments, including fire proofing, exterior insulation, and any methods of attachment for insulation systems, but excluding allowed projections as further described in subsection 26.575.020.E.5, below. In any instance where the addition of exterior improvements results in a setback of five (5) feet or less, the Community Development Director shall evaluate site context to ensure the improvements are appropriate and compliant with building codes. (See Figure 8.b)

c. For existing single-family, duplex and multi-family residential structures that encroach into the setback and propose energy efficiency of fire protection upgrades on the exterior of the structure, a maximum of eight (8) inches of all exterior veneer such as brick, stone or other exterior treatments, including fire proofing, exterior insulation, and any methods of attachment for insulation, may be added to the wall assembly without being considered a non-conformity and triggering compliance with Chapter 26.430 – Non-Conformities In any instance where the addition of exterior improvements result in a setback of five feet or less, the Community Development Director shall evaluate site context to ensure the improvements are appropriate and compliant with building codes.

2. **Determining Front, Rear, and Side Yards.** The front yard setback shall be measured from the front lot line. The Front Lot Line shall be the parcel boundary closest to or dividing a lot from
a Street or street right-of-way. All parcels have a front lot line. There shall not be more than one front lot line.

The rear yard setback shall be measured from the rear lot line. The Rear Lot Line shall be the parcel boundary opposite the front lot line. All parcels have a rear lot line. A parcel shall have only one rear lot line.

Side yard setbacks shall be measured from the side lot lines. Side lot lines shall be those parcel boundaries other than a front or rear lot line. All parcels will have at least one side lot line and may have multiple side lot lines.

For corner parcels, the front lot line shall be the parcel boundary along the Street with the longest block length and the remaining boundary shall be a side lot line.

For corner parcels where the parcel boundary follows a curving Street, the midpoint of the curve shall be used to differentiate the front lot line and the side lot line. In this case, the boundary segment with the shortest Street frontage shall be the front lot line.
For reverse curve lots, the curved portion of the lot line shall be considered the front lot line and the two opposing parcel boundaries shall be considered side lot lines.

For all double frontage lots with Streets on opposite sides of the parcel, except for those parcels abutting Main Street, the front lot line shall be the parcel boundary with the greatest length of Street frontage and the opposing lot boundary shall be the rear lot line.
For double frontage lots with equal length street frontages, the front lot line shall mirror the front lot lines of the adjoining lots to the extent practical.

For double frontage lots abutting Main Street, the front lot line shall be the lot line adjoining Main Street.

The Community Development Director shall resolve any discrepancies or situations where the foregoing text does not provide definitive clarity by issuance of a recordable administrative determination.

3. **Determining required setbacks adjacent to streets or rights-of-way.** When a property does not extend into an adjacent public or private right-of-way or street easement, the required setback shall be measured from the lot line.

When a property extends into an adjacent public or private right-of-way or street easement, the required setback for that portion of the lot shall be measured from the edge of the right-of-way or street easement closest to the proposed structure.
4. **Combined Setbacks.** Where zoning provisions require a combined yard setback (either front-rear or side-side), the narrowest point on each yard shall be the basis for measuring the combined setback. A combined yard requirement may not be met by staggering the required yard setbacks.

For example, if a lot requires a combined side-yard setback of thirty (30) feet, with a minimum of ten (10) feet on either side, Figure 14 shows compliance with the requirement – one side yard is ten (10) feet, the other is twenty (20) feet, and each side yard setback is consistent from front to rear.

Given the same example, Figure 15 meets the individual ten (10) feet’ setback requirements, but the combined setback is staggered and is not consistent from front to rear. This example does not meet the combined setback requirement.

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**Figure 13: Required setback from a right-of-way or street easement**
5. **Allowed Projections into Setbacks.** Setback areas shall be unobstructed above and below ground except for the following allowed projections:

   a) Above or below ground utilities, including transformers and vaults, below-grade heating or cooling conduit or infrastructure such as a ground-source heat pump system, below-grade dry wells or other at-grade or below-grade drainage infrastructure.

   b) Trees and vegetation.

   c) Artwork, sculpture, seasonal displays.

   d) Flagpoles, mailboxes, address markers.

   e) Foundation footers, soil nails or below-grade tiebacks, and similar improvements necessary for the structural integrity of a building or other structures.

   f) The minimum projection necessary to accommodate exterior mounted utility junctions, meters, cable boxes, vent flues, standpipes, and similar apparatus and including any protective structure as may be required by the utility provider.

   g) Building eaves, bay windows, window sills, and similar architectural projections up to eighteen (18) inches as measured from the setback boundary.
h) The minimum projection necessary to accommodate light wells and exterior basement stairwells as required by adopted Building or Fire Codes as long as these features are entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s).

If any portion of the feature projects into the setback, the entire feature may be no larger than the minimum required.

Features required for adjacent subgrade interior spaces may be combined as long as the combined feature represents the minimum projection into the setback. There is no vertical depth limitation for these features.

This exemption does not apply to Areaways. This exemption does not apply to light wells and exterior basement stairwells which are not required by adopted Building or Fire Codes.

i) The minimum projection necessary to accommodate an exterior-mount fire escape to an existing building, as may be required by adopted Building or Fire Codes.

j) Uncovered porches, landscape terraces, slabs, patios, walks and similar features, which do not exceed six (6) inches vertically above or below the surrounding finished grade for the entire feature.

k) Landscape walls, berms, retaining walls, stairways and similar structures, which do not exceed thirty (30) inches vertically above or below the lower of natural or finished grade. Improvements may be up to thirty (30) inches above and below grade simultaneously, for up to a sixty (60) inch total. Improvements may exceed thirty (30) inches below grade if determined to be necessary for the structural integrity of the improvement. Berms are prohibited in the front yard setback.

l) Drainage swales, stormwater retention areas, bio retention areas, rain collection systems, and similar stormwater retention, filtration or infiltration devices or facilities are permitted in setbacks as long as the finished grade of the top of the improvement does not exceed thirty (30) inches vertically above or below the surrounding finished grade. Stormwater improvements or portions thereof may be buried and exceed thirty (30) inches below grade as long as the finished grade above the facility does not exceed thirty (30) inches vertically above or below the surrounding finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously.

m) Hot tubs, spas, pools, water features, and permanently affixed outdoor grills, furniture, seating areas, and similar permanent structures shall have the following requirements:
   a. Prohibited between any lot line adjacent to a street and any structure; and
   b. Shall be located at least double the minimum setback for a primary structure from any lot line adjacent to a street; and
   c. If visible from the street, these features shall be screened in accordance with Section 26.575.050, Fence Materials, with natural features, or by other means determined appropriate by the Community Development Director; and
   d. If located within a setback not adjacent to a street, these features shall not exceed thirty (30) inches above or below finished grade. These features may be up to thirty (30) inches
above and below finished grade simultaneously. Improvements may exceed thirty (30) inches below grade if necessary for the structural integrity of the improvement.

n) Heating and air conditioning equipment and similar mechanical equipment, but excluding generators, shall have the following requirements:

a. Prohibited between any lot line adjacent to a street and any structure; and

b. Shall be located at least double the minimum setback for a primary structure from any lot line adjacent to a street; and

c. If visible from the street, these features shall be screened in accordance with Section 26.575.050, Fence Materials, with natural features, or by other means determined appropriate by the Community Development Director; and

d. If located within a setback not adjacent to a street, these features shall not exceed thirty (30) inches above and forty-eight (48) inches below finished grade. These features may be up to thirty (30) inches above and forty-eight (48) inches below finished grade simultaneously.

o) The height and placement of energy efficiency or renewable energy production systems and equipment, which are located adjacent to or independent of a building shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. These systems are discouraged between any lot line adjacent to a street and any structure. For energy production systems and equipment located on top of a structure, see sub-section F.4.

p) The Community Development Director may approve exceptions to the requirements of m), n), and o) above. The Community Development Director must first determine that the visual impact of the exemption is minimal, that no other reasonable option exists, or that there is a
significant increase in efficiency gained as a result of flexibility. Approval may be granted during building permit review, or as part of a site-specific development approval.

q) Fences and hedges less than forty-two (42) inches in height, as measured from finished grade, are permitted in all required yard setbacks. Fences and hedges up to six (6) feet in height, as measured from finished grade, are permitted only in areas entirely recessed behind the vertical plane established by the portion of the building facade which is closest to the Street. This restriction applies on all Street-facing facades of a parcel. (Also see Section 26.575.050 – Supplementary Regulations for limitations on fence materials.)

r) Driveways not exceeding twenty-four (24) inches above or below finished grade within any setback of a yard facing a Street. Within all other required setbacks, finished grade of a driveway shall not exceed thirty (30) inches above or below finished grade.

s) Parking may occur in required setbacks if within an established driveway or parking area and the curb cut or vehicular access is from an alleyway, if an alleyway abuts the property, or has otherwise been approved by the City.

t) Non-permanent features which are not affixed to the ground such as movable patio furniture, outdoor seating or a picnic table, barbeque grills, children’s play equipment, and similar non-permanent features which are not affixed to the ground. This exemption shall not allow storage sheds or containers.

u) Wildlife-resistant Trash and Recycling enclosures located in residential zone districts shall be prohibited in all yards facing a Street. These facilities may be placed within non-street facing yards if the enclosure is the minimum reasonably necessary in both height and footprint, is an unconditioned space not integrated with other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant trash and recycling enclosures located in commercial, mixed-use, or lodging zone districts are not exempt from setback requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas.

Temporary intermittent placement of trash and recycling containers in or along yards facing a Street is allowed. For example, on “trash day.”

Enclosures shall be located adjacent to the alley where an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic

Figure 17
Preservation Commission, enclosures shall not abut or be attached to a historic structure. Enclosures may abut other non-historic structures.

For projects that are proposed to be, or are currently 100% Deed Restricted Affordable Housing, Wildlife-resistant trash and recycling enclosures shall be located along the alley, when possible. If no alley exists, the enclosure may be located in a street facing yard if located and designed in a way to minimize visual impact of the enclosure, ensure efficient use of the enclosure, and the minimum size necessary in both height and footprint to meet the requirements of Title 12 of the Municipal Code.

v) Generators are prohibited between and structure and the street and within any setback. Exceptions may be made by the Community Development Director in accordance with Section 26.575.020.E.5.J.

F. Measuring Building Heights.

1. For properties in the Commercial Core (CC), Commercial (C1), Commercial Lodge (CL), Neighborhood Commercial (NC) and Service Commercial Industrial (SCI) Zone Districts, the height of the building shall be the maximum distance between the ground and the highest point of the roof top, roof ridge, parapet, or top-most portion of the structure. See subsection 3, below, for measurement method.

2. For properties in all other Zone Districts, the height of the building shall be measured according to the pitch of the roof as follows. See subsection 3, below, for measurement method.

   a) Flat roofs or roofs with a pitch of less than 3:12. The height of a building with a roof pitch of less than 3:12 shall be measured from the ground to the top-most portion of the structure.

   b) Roofs with a pitch from 3:12 to 7:12. The height of a building with a roof pitch from 3:12 to 7:12 shall be measured from the ground to the point of the roof vertically halfway between the eave point and the ridge. There shall be no limit on the height of the ridge.
c) *Roofs with a pitch greater than 7:12.* The height of a building with a roof pitch greater than 7:12 shall be measured from the ground to the point of the roof vertically one-third ($\frac{1}{3}$) of the distance up from the eave point to the ridge. There shall be no limit on the height of the ridge.

![Figure 19: Measuring height for roofs with pitch from 3:12 to 7:12](image)

![Figure 20: Eave Point and Exterior Sheathing of a Roof](image)
For roofs with multiple pitches within one vertical plane, the height of the roof shall be measured by drawing a line within a vertical section between the ridge and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.

d) For barrel-vault roofs, height shall be measured by drawing a line within a vertical section between the top-most point of the roof and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.

e) For “shed” roofs with a single-pitch, the methodology for measuring shall be the same as described above according to the slope of the roof and by using the highest point of the roof as the ridge.

f) For mansard roofs, height shall be measured to the flat roof as described above.

g) Dormers shall be excluded from the calculation of height if the footprint of the dormer is 50% or less of the roof plane on which the dormer is located and the ridge of the dormer is not higher than the ridge of the roof on which it is located. If there are multiple dormers on one roof plane, the aggregate footprint shall be used. Otherwise, dormers shall be included in the measurement of height according to the methods described above.

h) Butterfly roofs shall be measured in accordance with shed roof methodology.

3. **Height Measurement Method.** In measuring a building for the compliance with height restrictions, the measurement shall be the maximum distance measured vertically from the ground to the specified point of the building located above that point, as further described below:

   a. *Measuring height along the perimeter of the building.* At each location where the exterior perimeter of a building meets the ground, the measurement shall be taken from the lower of natural or finished grade. Building permit plans must depict both natural and finished grades.

   b. *Measuring height within the footprint of the building.* For the purposes of measuring height within the footprint of a building, areas of the building within 15 horizontal feet of the building’s perimeter shall be measured using the perimeter measurement, as described above. In all other areas, the natural grade of the site shall be projected up to the allowable height and the height of the structure shall be measured using this projected topography.

In instances where the natural grade of a property has been affected by prior development activity, the Community Development Director may accept an estimation of pre-development topography prepared by a registered land surveyor or civil engineer. The Director may require additional historical documentation, technical studies, reports, or other information to verify a pre-development topography.

If necessary, the Community Development Director may require an applicant document natural grade, finished grade, grade being used within the footprint of the building, and other relevant height limitation information that may need to be documented prior to construction.

   c. *Measuring to the roof* – The high point of the measurement shall be taken from the surface of a structure’s roof inclusive of the first layer of exterior sheathing or weatherproofing membrane but excluding exterior surface treatments such as shakes, shingles, fire proofing, exterior insulation, a second layer of exterior sheathing, or other veneer treatments or ornamentation.
When measuring roofs to a point between the ridge and the eave point, the eave point shall be the point where the plane of a roof intersects the plane of the exterior wall. The roof and wall planes shall be of the nominal structure, excluding all exterior treatments.
4. **Allowed Exceptions to Height Limitations.**

   a) *Chimneys, flues, and similar venting apparatus.* Chimneys, flues, vents, and similar venting apparatus may extend no more than ten (10) feet above the height of the building at the point the device connects. For roofs with a pitch of 8:12 or greater, these elements may not extend above the highest ridge of the structure by more than required by adopted building codes or as otherwise approved by the Chief Building Official to accommodate safe venting. To qualify for this exception, the footprint of these features must be the minimum reasonably necessary for its function the features must be combined to the greatest extent practical. Appurtenances such as hoods, caps, shields, coverings, spark arrestors, and similar functional devices or ornamental do-dads shall be contained within the limitations of this height exception.

   On structures other than a single-family or duplex residential building or an accessory building, all Chimneys, flues, vents, and similar venting apparatus should be set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint should be minimized and combined to the greatest extent practicable.

   b) *Communications Equipment.* Antennas, satellite dishes, and similar communications equipment and devices shall comply with the limitations of Section 26.575.130 – Wireless Telecommunication Services Facilities and Equipment.

   c) *Elevator and Stair Enclosures.* On structures other than a single-family or duplex residential building or an accessory building, elevator overrun enclosures and stair enclosures may extend up to five (5) feet above the specified maximum height limit.

   Elevator and stair enclosures may extend up to ten (10) feet above the specified maximum height limit if set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint of the elevators or stair enclosures are minimized and combined to the greatest extent practicable.

   For single-family and duplex residential buildings and for accessory buildings, elevator and stair enclosures are not allowed a height exception.

   d) *Rooftop Railings.* On any structure other than a single-family or duplex residential building, rooftop railings and similar safety devices permitting rooftop access may extend up to five (5) feet above the height of the building at the point the railing connects. To qualify for this exception, the railing must be the minimum reasonably necessary to provide adequate safety and building code compliance and the railing must be 50% or more transparent. All railings shall be set back from any Street facing facade of the building by an amount equal to the height of the railing.

   For single-family and duplex residential buildings, rooftop railings shall not be allowed a height exception.

   e) *Mechanical Equipment.* Heating, ventilation, and air conditioning systems, and similar mechanical equipment or utility apparatus located on top of a building may extend up to six (6) feet above height of the building at the point the equipment is attached. This allowance is inclusive of any pad the equipment is placed on, as well as any screening. Mechanical equipment shall be screened, combined, and co-located to the greatest extent practicable.
On structures other than a single-family or duplex residential building or an accessory building, all mechanical equipment shall be set back from any Street facing façade of the building a minimum of fifteen (15) feet.

f) **Energy Efficiency or Renewable Energy Production Systems and Equipment.** Energy efficiency systems or renewable energy production systems and equipment including solar panels, wind turbines, or similar systems and the system’s associated equipment which is located on top of a building may extend up to six (6) feet above the height of the building at the point the equipment is attached.

On any structure other than a single-family or duplex residential building or an accessory building, these systems may extend up to ten (10) feet above height of the building at the point the equipment is attached if set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint of the equipment is minimized and combined to the greatest extent practicable.

The height and placement of energy efficiency or production systems which are not located on top of a building (located independent of a building) shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. (Also see setback requirements for these systems at sub-section E.5.)

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<td><em>(g)</em> Church spires, bell towers and like architectural projections on Arts, Cultural and Civic buildings may extend over the height limit as may be approved pursuant to Commercial Design Review.</td>
<td><em>(h)</em> Flag poles may extend over the specified maximum height limit.</td>
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<td><em>(i)</em> <strong>Exceptions for buildings on slopes.</strong> For properties with a slope that declines by 10% or greater from the front lot line, the maximum height of a building's front (street-facing) facade may extend horizontally for the first ten (10) feet of the building's depth.</td>
<td><em>(j)</em> For properties located in the geographical area bounded by Durant Street, Main Street, Monarch Street and Original Street and have a maximum elevation change of three (3) feet, the maximum height measurement as determined from the highest point of the lot may extend the entire width or length of the lot. See Figure A, below, where “X” is the measured height.</td>
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**Figure A: Measurement on a Slope**
j) **Exceptions for lightwells and basement stairwells.** A basement stairwell required by Building Code for egress shall not be counted towards maximum permissible height. On street facing facades the minimum size lightwell entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s), and enclosed on all sides to within eighteen (18) inches of the first floor level (e.g. not a walk-out style light well) shall not be counted towards maximum permissible height. On non-street facing facades a lightwell that is no more than one hundred (100) square feet shall not be counted towards maximum permissible height. This exception does not apply to lightwells and stairwells that are located within a setback.

For properties that contain an areaway that counts toward the pedestrian amenity requirement, the qualifying areaway shall not be counted towards maximum permissible height. See Figure B, below, where “X” is the measured heights and “Y” is not counted if the subgrade area counts as pedestrian amenity.

Figure B: Measurement of heights with subgrade pedestrian amenity

The Historic Preservation Commission is authorized to grant an exception to height for lightwells larger than one hundred (100) square feet on historic landmark properties that contain a historic resource upon a finding that the following conditions are met:

a. Lightwell is not easily visible from the right of way.

b. Approval of the exemption supports the preservation of the historic resource.

k) For commercial, lodge, or mixed-use buildings located in the Commercial Core (CC), Commercial (C-1), or Neighborhood Commercial (NC) zone districts, decorative, non-functional architectural elements such as a parapet, cornice, spire, pediment, are exempted from height measurement up to twenty-four (24) inches only if approved by the Planning and Zoning Commission or Historic Preservation Commission as part of a Commercial Design Review. This exemption shall not be combined with any other height exemptions.
Permanent Rooftop Amenities. Permanent rooftop amenities, such as built-in wet bars, built-in barbeque grills, cabinets, sinks, fire pits, pools, hot tubs, etc. shall be permanently installed and shall meet the following height and setback requirements to qualify for a height exemption. This only applies to a mixed use, lodge, or commercial building located in the Commercial Core (CC) Zone District, Mixed Use (MU) Zone District, the Commercial (C-1) Zone District, the Lodge (L) Zone District, the Neighborhood Commercial (NC) Zone District, or the Commercial Lodge (CL) Zone District. Permanent rooftop amenities may extend up to five (5) feet above height of the building at the point the equipment is attached to the roof. This allowance is inclusive of any pad the equipment is placed on. A trellis with a maximum height of ten (10) feet and a maximum floor area of no more than 5% of the useable deck area is permitted. All permanent rooftop amenities shall be set back from any Street facing façade of the building by a minimum of ten (10) feet.

Exceptions for skylight and light tubes. A skylight or light tube typical of industry standards and meeting minimum Building Code standards shall not be counted towards maximum permissible height.

H. Measurement of Net Leasable Area and Net Livable Area. The calculation of net leasable area and net livable area shall include all interior space of a building measured from interior wall to interior wall, including interior partitions. Net leasable area and net livable area shall be attributed to the lot or parcel upon which it is developed. Net leasable area includes all interior areas which can be leased to an individual tenant with the exceptions noted below. Net livable area includes those areas of a building that are used or intended to be used for habitation with the exceptions noted below. Garages and carports are exempt from net leasable area and net livable area calculations.

1. Permanently installed interior airlock spaces are exempt from the calculation of net leasable space up to a maximum exemption of 100 square feet. Seasonal airlocks of more than 10 square feet, installed on the exterior of a building, shall be considered net leasable area and shall be subject to all requirements of the Land Use Code, including employee mitigation, prorated according to the portion of the year in which it is installed.

2. Unless specifically exempted through other provisions of this Title, outdoor displays, outdoor vending, and similar commercial activities located outside (not within a building) shall also be included in the calculation of net leasable area. The calculation of such area shall be the maximum footprint of the display or vending apparatus. For vending carts or similar commercial activities requiring an attendant, the calculation shall also include a reasonable amount of space for the attendant. Exterior decks and exterior seating are not included in the calculation of net leasable area. Vending machines, gas pumps, and similar devices without an attendant shall not be considered net leasable area.

The calculation of net leasable area and net livable area shall exclude areas of a building that are integral to the basic physical function of the building. All other areas are attributed to the measurement of net leasable commercial space or net livable area. When calculating interior stairways or elevators, the top most interior level served by the stairway or elevator is exempt from net livable or net leasable area calculations.
Shared areas that count toward net leasable area and net livable area shall be allocated on a proportionate basis of the use category using the percentages that are generated pursuant to Section 26.575.020.D.14 Allocation of non-unit space in a mixed use building.

Examples:

1. A broom closet of a minimum size to reasonably accommodate the storage of janitorial supplies for the entire building is considered integral to the physical function of the building and does not count toward net leasable area.

2. A shared commercial storage area that is larger than needed for the basic functionality of the building counts toward net leasable area because it is useable by the businesses.

3. A shared stairway and a shared circulation corridor (that access more than one use) are integral to the physical function of the building and do not count in the measurement of net livable area or net leasable area.

4. A stairway that is entirely within one residential unit counts toward the measurement of net livable area.

5. A private elevator that serves more than one residential unit, and does not provide access to other uses, does not count toward the measurement of net livable area.

6. A private elevator that serves only one residential unit, and does not provide access to other uses, counts toward the measurement of net livable area.

7. A shared mechanical room that is larger than the minimum space required to reasonably accommodate the mechanical equipment counts toward the measurement of net livable area or net leasable area as applicable. The area of the mechanical room that is the minimum size required for the mechanical equipment does not count in net livable area or net leasable area.

I. Exceptions for Energy Efficiency. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate the addition of energy production systems or energy efficiency systems or equipment in or on existing buildings when the site is constrained, or it’s recognized flexibility is warranted to improve efficiency of the equipment or structure. The Community Development Director must first evaluate that the visual impact of the exemption is minimal and that no other reasonable way to implement energy production or efficiency exists that is more effective and less impactful. Exception for Energy Efficiency may be approved during building permit or land use review.

J. Exceptions for Building Code Compliance. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate improvements required to achieve compliance with building, fire, energy, or accessibility codes in or on existing buildings when no other practical solution exists. The Community Development Director must first evaluate that the visual impact of the exemption is minimal and that no other reasonable way to implement code compliance exists that is more effective and less impactful. Exception for Building Code Compliance may be approved during building permit review or land use review.
K. Appeals. An applicant aggrieved by a decision made by the Community Development Director regarding this Calculations and Measurements Section may appeal the decision to the Administrative Hearing Officer, pursuant to Chapter 26.316.


Section 10:
Land Use Code Section 26.580. Demolition is a new section of the code and shall be adopted as follows:

TITLE 26
LAND USE REGULATIONS
PART 500 — SUPPLEMENTARY REGULATIONS

Chapter 26.580 DEMOLITION
Sec. 26.580.010 Purpose
Sec. 26.580.020 Future Amendments
Sec. 26.580.030 Applicability
Sec. 26.580.040 Measurement of Demolition
Sec. 26.580.050 Exemptions
Sec. 26.580.060 Enforcement and Penalties
Sec. 26.580.070 Appeals
Sec. 26.580.080 Adoption of Residential Demolition and Redevelopment Standards

Chapter 26.580 DEMOLITION

26.580.010. – Purpose.

A. The purpose of the Chapter is to describe and define Demolition as it relates to all land use types in the City of Aspen. The definition of Demolition and the application of this definition is impactful to several sections of the Land Use Code including, but not limited to: Non-Conformities (26.312) and the Growth Management Quota System (26.470). While the definitions and processes described below apply to all use types, particular attention is given to the Demolition of Single-Family and Duplex Residential Units.

B. The definitions and regulation in this section and the relationship to other sections of the Land Use Code are meant to regulate impactful development activities and to mitigate negative impacts of complex and significant construction projects to protect the health, safety and welfare of the public. These negative impacts include ecological, economic, transportation, and social impacts. Ensuring impactful development activities are adequately mitigated and consistent with Aspen’s small-town character furthers the City’s Climate goals by improving regulatory responses to natural resource consumption, reduces traffic impacts, encourages a more sustainable diversion of solid waste from
the landfill, reduces general construction impacts to the community, and ensures that Aspen continues to be a leader in efficient design practices is a key goal and purpose of this section.


All future amendments to this Chapter shall be exempt from the requirement of Policy Resolution for code amendments (Section 26.310.020.B.1-2). Future amendments may proceed directly to a First and Second Reading, pursuant to Section 26.310.020.B.3.


This chapter applies to land use applications and building permit submissions for development within the City limits for projects that meet or exceed the definition of Demolition, unless exempted by Subsection 26.580.050.


A. The City Zoning Officer shall determine if a building is intended to be, or has been Demolished by applying the following process of calculation:

1. Anytime Demolition is proposed the applicant shall calculate the area of the existing surfaces as follows:

   a. The surface area of all existing (prior to commencing development) exterior wall assemblies above finished grade. Not counted in the existing exterior surface area calculations shall be all existing fenestration (doors, windows, skylights, etc.).

   b. The surface area of all existing (prior to commencing development) roof assemblies.

2. The applicant shall calculate the area of existing surfaces that are proposed to be removed and determine the overall percentage that is removed.

   a. The exterior wall surface area and roof surface area, as described above, to be removed.

   b. Wall area or roof area being removed to accommodate new or relocated fenestration shall be counted as exterior surface area being removed.

3. If the percentage removed exceeds 40%, then the development shall be considered Demolition, pursuant to Section 26.104.100.

4. Demolition shall also include the removal of a dwelling unit in a multi-family or mixed-use building, its conversion to nonresidential use, or any action which penetrates demising walls or floors between Multi-Family Housing Units if such action is undertaken to combine the units. See the requirements of Section 26.470.100.D – Demolition or Redevelopment of Multi-Family Housing.
B. Anytime Demolition is proposed, the applicant shall prepare and submit a diagram showing the calculation. The diagram shall depict each exterior wall and roof segment as a flat plane with an area tabulation.

1. According to the prepared diagram and area tabulation, the surface area of all portions of the exterior to be removed shall be divided by the surface area of all portions of the exterior of the existing structure and expressed as a percentage. The Zoning Officer shall use this percentage to determine if the building is to be or has been Demolished according to the definition in Section 26.104.100, Demolition.

2. If portions of the building involuntarily collapse while construction is occurring, regardless of the developer's intent, that portion shall be calculated as removed and included towards Demolition.

3. If additional portions of an area are required to be removed for health and safety reasons (such as mold) after initial work has begun, that portion shall not be included in the calculation of Demolition. An inspection with the Chief Building Official shall be required in order to confirm removal is necessary for health and safety reasons.

C. For the purposes of the calculation of Demolition, the following provisions shall apply:

1. Exterior wall assembly and roof assembly shall constitute the exterior surface of that element including such items as studs, joists, rafters etc.

2. If a portion of a wall or roof stud is to be removed, the associated exterior surface area shall be diagrammed as being removed.

3. If a portion of a wall or roof involuntarily collapses, regardless of the developer's intent, that portion shall be calculated as removed.

4. Recalculation may be necessary during the process of development and the Zoning Officer may require updated calculations as a project progresses.

5. Replacement of fenestration shall not be calculated as wall area to be removed. New, relocated or expanded fenestration shall be counted as wall area to be removed.

6. Only exterior surface area above finished grade shall be used in the determination of demolition. Sub-grade elements and interior wall or structural elements, while potentially necessary for a building's integrity, shall not be counted in the computation of exterior surface area.

7. Replacement of exterior sheeting when the structural components of that area are to remain, does not count toward the calculation of Demolition.

8. It shall be the responsibility of the applicant to accurately understand the structural capabilities of the building prior to undertaking a remodel. Failure to properly understand the structural capacity of elements intended to remain may result in an
involuntary collapse of those portions and a requirement to recalculate the extent of demolition. Applicant’s intent or unforeseen circumstances shall not affect the calculation of actual physical demolition.

9. Separate Demolition calculations shall be provided for each detached structure on a parcel. For structures with multiple attached units, such as an attached duplex, Demolition calculations shall be for the entire structure, not per unit.

10. Additional requirements or restrictions of this Title may be required when Demolition occurs.

D. The calculation of Demolition shall be cumulative for a period of ten (10) years. At any point in a ten (10) year period, a structure on a property exceeds the threshold for Demolition, it shall be subject to the provisions of this Chapter, as amended.

26.580.050. – Exemptions

The Community Development Director may exempt projects, or a portion thereof, from the calculation of Demolition if any of the following circumstances exist. Upon a finding by the Community Development Director that a project qualifies for an exemption, the project may proceed with any other required reviews as determined by this Title or the submission of a building permit.

A. Dangerous Structures. Any building or structure that has been determined to be dangerous, structurally unsafe or otherwise hazardous to human life, and is required to be abated by demolition. This may include structures destroyed or damaged by fire, flood or other natural disaster. The Chief Building Official shall make this determination.

B. The project is a 100% deed restricted affordable housing, or after completion of the project will be 100% deed restricted affordable housing.

C. De Minimus Exception. The Community Development Director may waive any of the requirements of this chapter if documentation satisfactory to the Director is provided to establish that the scope of work is minimal and that providing Demolition documentation would be inappropriate or unreasonable.

D. If an existing structure is to be temporarily relocated, on or off-site, and placed back on an existing or reconfigured foundation that action shall not be considered Demolition for the purposes of this chapter.

E. Exception for Necessary Repairs or Life/Safety concerns. If Demolition is triggered not due to remodel or renovation activity but is determined by the Community Development Director to be required for normal maintenance as defined in Title 26 (see definition in section 26.104.100) or to rectify life safety issues, such as replacing a failing roof or mold removal, the square footage impacted by the work shall be exempt from this section. This provision shall not allow an increase to the height, floor area, net livable area of a building beyond what is the minimum necessary required to comply with the Building Code.

F. Exception for the removal of Non-Historic Additions to Designated Historic Structures. If the Historic Preservation Commission has determined that in the development of a structure that is
designated on Aspen’s list of Historic Landmarks, that non-historic elements of the project shall be removed in returning the historic resource to its original configuration or character – the portion of the project attributed to the non-historic elements shall not be calculated toward the 40% threshold.

26.580.060. – Enforcement and Penalties

A. The Community Development Director, City Engineer, Construction Mitigation Officer, or their assigned staff shall have responsibility for enforcement of this chapter and are authorized to take any and all other actions reasonable and necessary to enforce this chapter.

B. Violation of any provision of this chapter shall be subject to the provisions and penalties set forth in Section 26.104.040 of the Municipal Code unless otherwise specified.

26.580.070. – Appeals

A. Appeal of adverse determination by Community Development Director. An appeal made by an applicant aggrieved by a determination made by the Community Development Director that a project triggers Demolition and is subject to the requirements of this Chapter shall be to the Planning and Zoning Commission. The appeal procedures set forth at Chapter 26.316 shall apply. The Planning and Zoning Commission may reverse, affirm or modify the decision or determination of the Community Development Director based upon the application submitted to the Community Development Director and the record established by the Director's review. The decision of the Planning and Zoning Commission shall constitute the final administrative action on the matter.

26.580.080– Adoption of Residential Demolition and Redevelopment Standards for Projects that meet the definition of Demolition.

A. Pursuant to the powers and authority conferred by the Charter of the City, the City Council hereby adopts and incorporates by reference redevelopment standards, hereinafter referred to as the Residential Demolition and Redevelopment Performance Standards, which are incorporated by reference into the City of Aspen Land Use Code. The Residential Demolition and Redevelopment Standards set forth the design parameters to ensure residential redevelopment improves solid waste diversion, increases the energy efficiency of structures, and reduces negative impacts of construction. The Residential Demolition and Redevelopment Standards may be amended, updated, and expanded from time to time by City Council Resolution. The Residential Demolition and Redevelopment Standards shall be available for public inspection on the Community Development Departments web page. Projects that are pursuing a Demolition Allotment as described in Section 26.470.090.C will be reviewed pursuant to these standards.

Section 11:
Land Use Code Section 26.610.020, 26.610.030, 26.610.040, 26.610.080, 26.610.090. from Impact Fees shall be rescinded and readopted as follows:
Unless expressly exempted, the Park Development impact fee and the Transportation Demand Management (TDM)/Air Quality impact fee shall be assessed upon all development within the City which contains residential Allowable Floor Area or net leasable commercial space.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

This Chapter does not apply to:

A. Development involving a property listed on the Aspen Inventory of Historic Landmark Sites and Structures. This exemption is solely for an historic structure and its accessory structures. Development on an historic landmark property involving a non-historic or new building shall not be exempt.

B. Alteration, expansion or replacement of a structure which does not create additional Allowable Floor Area or net leasable commercial space.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

When used in this Chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Other words and terms shall be defined under the Definition section of this Title:

A. Allowable Floor Area and Net Leasable Commercial Space shall be as defined and calculated according the City of Aspen Land Use Code.

B. Building permit means any City permit that involves increases in floor area, net leasable square footage and/or changes to land use.

C. Capital facilities means land, structures or equipment for purposes of parks and recreation, transportation demand management and air quality. Capital facilities also includes design, engineering, inspection, testing, planning, legal review, land acquisition and all other costs associated with the construction or purchase of land, structures or equipment.

D. Collection means the point at which the impact fee/charge is actually paid to the City.

E. Impact fee means a monetary exaction imposed by the City pursuant to this Chapter as a condition of or in connection with approval of a development project for the purpose of defraying all or some of the City's cost for capital facilities associated with that development project.

F. Impose means to determine that a particular development project is subject to the collection of impact fees as a condition of development approval.
G. **New development or development project** means any project undertaken for the purpose of development, including without limitation a project involving the issuance of a permit for construction, reconstruction or change of use but not a project involving the issuance of a permit to operate or to remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the amount of Allowable Floor Area, amount of net leasable commercial space, density or intensity of use.

H. **Nonresidential development project** means all development other than residential development projects.

I. **Residential development project** means any development, inclusive of hotel development, undertaken to create a new dwelling/lodge unit or add additional Allowable Floor Area to an existing dwelling/lodge unit.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

26.610.080. **Credits.**

A. A property owner who dedicates land or improvements, agrees to participate in an improvement district or otherwise contributes funds for capital facilities as defined in this Chapter may be eligible for a credit for such contribution against the impact fee paid.

1. The City Council shall determine:
   a) The value of the developer contribution;
   b) Whether the contribution meets capital facilities' needs for which the particular impact fee has been imposed; and
   c) Whether the contribution will substitute or otherwise reduce the need for capital facilities anticipated to be provided with impact fee funds.

   In no event, however, shall the credit exceed the amount of the applicable impact fee.

B. When additional residential Allowable Floor Area, hotel Allowable Floor Area or net leasable commercial space are proposed after the demolition of a dwelling unit, lodge unit, or net leasable space, either individually or in combination, a credit for the existing Allowable Floor Area or net leasable space shall be credited towards the replacement development. A credit may only be allocated towards the development on the same individual lot or an adjacent lot within the same redevelopment, and cannot be assigned towards un-related development on a separate lot.

C. Any application for credit must be submitted on forms provided by the City before development project approval. The application shall contain a declaration under oath of those facts which qualify the property owner for the credit, accompanied by the relevant documentary evidence.

D. Total credits may not exceed the Impact Fee and a developer shall not be reimbursed by the City for new development which is smaller than the previous development.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

26.610.090. **Impact fees.**
The following impact fees are the result of the "City of Aspen Impact Fee Study and Update of School Lands Dedication" study, which was sponsored by the City of Aspen and completed by BBC Research and Consulting on August 7, 2006. This study is available at the Community Development Department. On September 26, 2011, the Impact Fees were amended by the City of Aspen in order to make Allowable Floor Area the calculation variable instead of bedrooms. RRC Associates assisted with this effort. Impact fees are hereby established as follows:

Table 610.1, Impact Fee Schedule

<table>
<thead>
<tr>
<th>Parks Development Fee</th>
<th>TDM/Air Quality Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential and Hotel $5.45 per square foot of Floor Area</td>
<td>Residential and Hotel $0.61 per square foot of Floor Area</td>
</tr>
<tr>
<td>Nonresidential $4.10 per square foot of Net Leasable Commercial Space</td>
<td>Nonresidential $0.46 per square foot of Net Leasable Commercial Space</td>
</tr>
</tbody>
</table>

Notes:
- An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated as additional Allowable Floor Area of the primary residence.
- The calculation for hotel units shall include only the Allowable Floor Area associated with the individual lodging units. The calculation of Parks Development and TDM/Air Quality fees shall not include non-unit space.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

Section 12:
Land Use Code Sections 26.620.040, 26.620.070, School Land Dedication Fees shall be rescinded and readopted as follows:

Chapter 26.620
SCHOOL LAND DEDICATION

When used in this Chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. Allowable Floor Area shall be defined and calculated according the City of Aspen Land Use Code.

B. Building permit means any City permit that increases residential floor area and/or changes of land use.
C. **Collection** means the point at which land or a cash payment in lieu is actually transferred or paid to the City.

D. **Impose** means to determine that a particular development project is subject to the collection of a land dedication as a condition of development approval.

E. **Land dedication** means a land exaction imposed by the City pursuant to this Chapter as a condition of or in connection with approval of a development project for the purpose of defraying all or some of the Aspen School District's cost for capital facilities associated with that development project.

F. **New development** or **development project** means any project undertaken for the purpose of development, including without limitation, a project involving the issuance of a permit for construction, reconstruction or change of use but not a project involving the issuance of a permit to operate or to remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the amount of floor area.

G. **Nonresidential development project** means all development other than residential development.

H. **Residential development project** means any development undertaken to create a new dwelling unit or to add additional floor area(s) to an existing dwelling unit, excluding hotel units.

(Ord. No. 33, 2006, §2; Ord. No. 27, 2011, §2)

26.620.070. **Land dedication and cash-in-lieu fees.**

A. The following land dedication is the result of the "City of Aspen Impact Fee Study and Update of School Lands Dedication" study, which was sponsored by the City and completed by BBC Research and Consulting on August 7, 2006. This study is available at the Community Development Department. The land dedication was amended on September 26, 2011 to implement a change that began using Allowable Floor Area as a basis of calculation instead of bedrooms. RRC Associates assisted with the change.

The current land area required per student equals 896 square feet. Table 620.1 provides the student generation rates as follows:

<table>
<thead>
<tr>
<th>Allowable Floor Area (square feet) per dwelling unit</th>
<th>Student Generation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 1,200</td>
<td>.000064 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>1,200 – 2,100</td>
<td>.000404 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>2,100 – 3,500</td>
<td>.000031 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>Above 3,500</td>
<td>0</td>
</tr>
</tbody>
</table>

Notes:
- The calculation of the School Land Dedication shall be assessed per dwelling unit. For example, duplex dwelling units do not combine their Allowable Floor Area for one calculation.

- An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated as additional Allowable Floor Area of the primary dwelling it is associated with.

- When redevelopment of a property adds Allowable Floor Area, the difference between the generation rates of the existing Allowable Floor Area and the proposed Allowable Floor Area shall be the basis for determining the number of students generated. No refunds shall be provided if Allowable Floor Area is reduced.

- When Demolition is proposed, the redevelopment shall be credited the Allowable Floor Area from the demolished residential dwelling unit. Credit from a demolished dwelling unit cannot be allocated to more than one replacement dwelling unit or to development on a different lot.

Figure 620.1, School Land Dedication Calculation

| 896 square feet – Land Area per Student Standard | multiplied by |
| Total Students Generated – Provided in Table 620.1, Student Generation Rates | equals |

**Total Square Feet to be Dedicated**

**B. Cash payment in lieu.** An applicant may make a cash payment in lieu of dedicating land to the City, or may make a cash payment in combination with a land dedication, to comply with the standards of this Chapter. Because of the extraordinary cost of land within the City, the School District and the City agreed to require payment of a cash-in-lieu amount which is less than the full market value of the land area. The formula to determine the amount of cash-in-lieu payment for each residential dwelling unit is as follows:

Figure 620.2, Cash-in-Lieu Formula

| Total Square Feet to be Dedicated | multiplied by |
| Per-Square-Foot Value of Land Being Developed (see below for value substantiation) | multiplied by |
| Percentage of Fee to be Charged – 33% (.33) | equals |

**Cash-in-Lieu Payment**

Figure 620.3, Cash Payment in Lieu Example
The following example provides a development scenario to display how the fee is calculated. The scenario includes a new 3,200 sq. ft. (Allowable Floor Area) single-family residential home on a 6,000 sq. ft. lot with an actual lot value of $2,400,000. The per square foot lot value is $400.

**Allowable Floor Area**

<table>
<thead>
<tr>
<th>Students Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,200</td>
</tr>
<tr>
<td>(first 1,200 sq. ft. x .000064)</td>
</tr>
<tr>
<td>(next 900 sq. ft. x .000404)</td>
</tr>
<tr>
<td>(remaining 1,100 sq. ft. x .000031)</td>
</tr>
</tbody>
</table>

**Total Student Generation Rate**

.475

**Land Dedication Calculation**

- Land Area per Student Standard (sq. ft.)
  - 896
- multiplied by
- Total Students Generated (from above calculation)
  - .475
- equals
- Total Square Feet to be Dedicated
  - 425.6

When calculating a cash payment in lieu of a land dedication (assuming a total land value of $2,400,000 for a 6,000-square-foot lot containing the dwelling unit), the following calculation would be used to determine the cash payment in lieu:

- Market Value of Land per sq. ft.
  - $400 per sq. ft.
- multiplied by
- Total Square Feet to be Dedicated
  - 425.6
- multiplied by
- Percentage of Fee to be Charged – 33%
  - 0.33
- equals
- Cash Payment in Lieu
  - $56,179.20

1. **Current market value.** *Current market value* means the value of the land at the time of the cash-in-lieu payment, including site improvements such as streets and utilities, but excluding the value of residential dwelling units and other structures on the property.

2. **Substantiation.** Market value may be substantiated by a documented purchase price (if an arms-length transaction no more than two [2] years old) or other mutually agreed-upon recognized means. Such means may include information from the Pitkin County Assessor for the specific

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parcel or for similar parcels on an aggregate basis or an estimate of value prepared by a qualified appraiser for the specific parcel or for similar parcels on an aggregate basis.

3. **Appraisal.** In the event the developer and the City fail to agree on market value, such value shall be established by a qualified real estate appraiser acceptable to both parties. The developer shall pay for the appraisal.

C. **Mixed Use Development.** Properties containing mixed use development shall only pay the School Land Dedication fee-in-lieu for the Allowable Floor Area associated with the residential component of the development. Non-unit space shall not contribute to the payment of School Land Dedication.

(Ord. No. 33, 2006, §2; Ord. No. 27, 2011, §2)

**Section 13:**
Land Use Code Section 26.710, *Zone Districts* shall be rescinded and readopted as follows:

**Chapter 26.710**
**LAND USE REGULATIONS**
**PART 700 — ZONE DISTRICTS**

Sections:
26.710.010 General purpose
26.710.020 Zone Districts established
26.710.022 Zoning of lands containing more than one underlying Zone District
26.710.024 Zoning of vacated areas
26.710.030 Official Zone District Map
26.710.040 Medium-Density Residential (R-6)
26.710.050 Moderate-Density Residential (R-15)
26.710.060 Moderate-Density Residential (R-15A)
26.710.070 Moderate-Density Residential (R-15B)
26.710.080 Low-Density Residential (R-30)
26.710.090 Residential Multi-Family (RMF)
26.710.100 Residential Multi-Family-A (RMFA)
26.710.110 Affordable Housing/Planned Development (AH/PD)
26.710.120 High Density Residential (R-3)
26.710.130 Rural Residential (RR)
26.710.140 Commercial Core (CC)
26.710.150 Commercial (C-1)
26.710.160 Service/Commercial/Industrial (S/C/I)
26.710.170 Neighborhood Commercial (NC)
26.710.180 Mixed Use (MU)
26.710.190 Lodge (L)
26.710.200 Commercial Lodge (CL)
26.710.220 Conservation (C)
26.710.230 Academic (A)
26.710.240   Park (P)
26.710.250   Public (PUB)
26.710.260   Open Space (OS)
26.710.270   Wildlife Preservation (WP)
26.710.280   Transportation Overlay (T) Zone District
26.710.290   Drainage Overlay (D) Zone District
26.710.300   Golf Course Support Overlay (GCS) Zone District
26.710.310   Lodge Overlay (LO) Zone District
26.710.320   Lodge Preservation Overlay (LP) Zone District
26.710.330   Ski Area Base (SKI)
26.710.340   Essential Business Overlay
26.710.010  General purpose.
In order to ensure that all development is consistent with the goals and objectives of the Aspen Area Community Plan and this Title, it is necessary and proper to establish a series of Zone Districts to ensure that each permitted and conditional use is compatible with surrounding land uses, is served by adequate public facilities and is consistent with the environmental sensitivity of the City and its surrounding area's natural resources. All development within each Zone District shall be consistent with the purposes stated for that Zone District in this Chapter. Any use which is not specifically listed in this Chapter as a permitted or conditional use in a Zone District shall be considered prohibited, unless otherwise interpreted by the Community Development Director pursuant to Chapter 26.306.

26.710.020  Zone Districts established.
The City is hereby divided in several zones, known and designated as detailed in this Chapter, to serve the purposes stated above and in each Section of this Chapter describing the individual Zone Districts.

26.710.022  Zoning of lands containing more than one underlying Zone District.
Whenever any parcel of land shall contain more than one underlying Zone District, the following rules shall apply:

A.  Proposed use not allowed in all Zone Districts. When a parcel of land contains more than one underlying Zone District and the proposed use is not allowed in all of the respective Zone Districts, then:

a.  The use can only be developed on land in which it is a permitted or a conditional use.

b.  The external floor area and density which shall apply to the use shall be calculated based only on the land area of the Zone District in which the use is a permitted or conditional use. The off-street parking requirements and other dimensional requirements which shall apply to the use shall be those of the Zone District in which the use is a permitted or conditional use, but shall be calculated on the basis of the land area and development of the entire parcel.

B.  Proposed use allowed in all Zone Districts. When a parcel of land contains more than one underlying Zone District and the proposed use is allowed in all of the respective Zone Districts, then:

a.  The use shall be developed by comparing each dimensional and parking requirement of the respective Zone Districts and applying the more restrictive of each requirement. These requirements shall, however, be calculated based on the land area and development of the entire parcel.

b.  The only exception shall be when the area of the parcel which is designated with the Zone District which permits the higher density constitutes more than seventy-five percent (75%) of the entire land area of the parcel. In this case, the use shall be developed using the dimensional requirements and off-street parking requirements of
the Zone District permitting the higher density, which shall be calculated on the basis of the land area and development of the entire parcel.

26.710.024 Zoning of vacated areas.
Whenever any street, alley or other public way within the City is vacated by the City Council, the land on which the street, alley or public way is located shall become a part of the Zone District of the lands adjoining such street, alley or public way. Those lands shall then become subject to the regulations that apply to that Zone District. In determining land available for development, however, vacated lands shall be excluded from the calculation of allowable floor area, density or required open space.

26.710.030 Official Zone District Map.
A. Establishment of Zone District map. The location and boundaries of the Zone Districts established in this Title shall be set forth on the Official Zone District Map of the City which is incorporated herein by reference into this Title as if fully described and set forth herein. A copy of the official Zone District map shall be located in the office of the Community Development Department at all times for inspection by the general public during regular business hours. The official Zone District map shall be the final authority as to the current zoning of land in the City.

B. Amendment to Zone District map. If pursuant to the terms of this Title, amendments are made to the boundaries of the official Zone District map, such amendments shall be entered on the official Zone District map promptly after amendment.
26.710.040 Medium-Density Residential (R-6).

A. **Purpose.** The purpose of the Medium-Density Residential (R-6) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Medium-Density Residential (R-6) Zone District are generally limited to the original Aspen Townsite, contain relatively dense settlements of predominantly detached and duplex residences and are within walking distance of the center of the City.

B. **Permitted uses.** The following uses are permitted as of right in the Medium-Density Residential (R-6) Zone District:

1. Detached residential dwelling.
2. Duplex.
3. Two (2) detached residential dwellings.
4. Triplex or Fourplex, if 100% Deed-Restricted Affordable Housing.
5. Existing multi-family housing, if 100% Deed-Restricted Affordable Housing. Existing multi-family housing that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
9. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Medium-Density Residential (R-6) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.
6. For historic landmark properties: bed and breakfast and boardinghouse.
D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Medium-Density Residential (R-6) Zone District:

1. **Minimum Gross Lot Area (square feet):** six thousand (6,000) square feet. For lots created by Section 26.480.060.B, Historic landmark lot split: Three thousand (3,000). For properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   b. *Duplex:* 4,500. For Historic Landmark Properties: 3,000. For properties subdivided as of April 28, 1975: 4,000. For properties annexed subsequent to January 1, 1989: 3,750.
   c. *100% Deed-Restricted Affordable Housing; triplex, fourplex:* No requirement.
   d. *100% Deed-Restricted Affordable Housing; existing multifamily:* No requirement.
   e. *Bed and breakfast, boardinghouse:* No requirement.

3. **Minimum lot width (feet):** Sixty (60). For lots created by Section 26.480.030.A.4, Historic Landmark Lot Split: Thirty (30). For lots proposed for 100% deed restricted affordable housing: Thirty (30).

4. **Minimum front yard (feet):** Principal buildings: 10. Accessory buildings: 15.

5. **Minimum rear yard (feet):** Principal buildings: 10. For the portion of a principal building used solely as a garage: 5. Accessory buildings: 5.

6. **Minimum side yard:**
Gross Lot Area (Square Feet) | Minimum Size for Each Side Yard | Total of Both Side Yards*
---|---|---
0—4,500 | 5 feet | 10 feet
4,500—6,000 | 5 feet | 10 feet, plus 1 foot for each additional 300 square feet of Gross Lot Area, to a maximum of 15 feet of total side yard
6,000—8,000 | 5 feet | 15 feet, plus 1 foot for each additional 200 square feet of Gross Lot Area, to a maximum of 25 feet of total side yard
8,000—10,000 | 10 feet | 25 feet, plus 1 foot for each additional 200 square feet of Gross Lot Area, to a maximum of 35 feet of total side yard
10,000+ | 15 feet | 35 feet, plus 1 foot for each additional 400 square feet of Gross Lot Area, to a maximum of 50 feet of total side yard.

The following requirements shall apply on a lot annexed subsequent to January 1, 1989.

Gross Lot Area (Square Feet) | Minimum Size for Each Side Yard | Total of Both Side Yards*
---|---|---
0—7,500 | 10 feet | 20 feet
7,500—10,000 | 10 feet | 20 feet, plus 1 foot for each additional 200 square feet of Gross Lot Area, to a maximum of 32.5 feet of total side yard
10,000+ | 15 feet | 32.5 feet, plus 1 foot for each additional 400 square feet of Gross Lot Area, to a maximum of 50 feet of total side yard.

* Two detached residential dwellings located on one lot shall not be subject to the combined side yard setback requirements, provided that the minimum setback between the two detached dwellings on the lot shall be ten (10) feet.

For purposes of calculating the minimum side yard setback for lots within the Hallam Lake Bluff environmentally sensitive area (ESA), the area below the top of slope shall be subtracted from lot size.

7. Maximum site coverage:

<table>
<thead>
<tr>
<th>Gross Lot Area (Square Feet)</th>
<th>Maximum Site Coverage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 -5,999</td>
<td>No limitation</td>
</tr>
</tbody>
</table>

City of Aspen Land Use Code
Part 700, R-6 zone
Page 3
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square fee in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—6,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,240 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,600 square feet of floor area</td>
</tr>
<tr>
<td>6,000—9,000</td>
<td>3,240 square feet of floor area, plus 14 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,660 square feet of floor area</td>
<td>3,600 square feet of floor area, plus 16 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
</tr>
</tbody>
</table>

8. Maximum height (feet): 25; Existing multi-family that is 100% Deed-Restricted Affordable Housing is limited to its existing height, or 25 feet, whichever is greater.

9. Minimum distance between detached buildings on the lot (feet): 5 feet.

10. Percent of open space required for building site: No requirement.

11. Floor area ratio (applies to conforming and nonconforming lots of record):

   i. Single-Family, Duplex, or Two Detached Dwellings
<table>
<thead>
<tr>
<th>Lot Size</th>
<th>Minimum Floor Area</th>
<th>Additional Floor Area per 100 Sq Ft</th>
<th>Maximum Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>9,000—15,000</td>
<td>3,660 sq ft, plus 6 sq ft for each 100 sq ft in Net Lot Area</td>
<td>up to 4,020 sq ft</td>
<td>4,020 sq ft, plus 6 sq ft for each additional 100 sq ft in Net Lot Area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,020 sq ft, plus 5 sq ft for each 100 sq ft in Net Lot Area</td>
<td>up to 5,770 sq ft</td>
<td>4,440 sq ft, plus 5 sq ft for each additional 100 sq ft in Net Lot Area</td>
</tr>
<tr>
<td>50,000+</td>
<td>5,770 sq ft, plus 2 sq ft for each 100 sq ft in Net Lot Area</td>
<td>up to 6,190 sq ft</td>
<td>6,190 sq ft, plus 3 sq ft for each additional 100 sq ft in Net Lot Area</td>
</tr>
</tbody>
</table>
*Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than nine thousand (9,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

i. Each City of Aspen Historic Transferable Development Right certificate extinguished, pursuant to Section 26.535, Transferable Development Rights, shall allow an additional two hundred and fifty (250) square feet of Floor Area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this Floor Area increase. Non-conforming uses and structures shall not be eligible for this Floor Area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

ii. Non-historic properties with a net lot area of 9,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

iii. Properties within the same subdivision or planned development as a sending site may be specified as eligible for up to two (2) floor area increases per residence pursuant to the subdivision or planned development approval. The properties to be specified as eligible for up to two (2) floor area increases per residence shall be located within the same subdivision or planned development so as to enhance preservation of the historic resource, considering a recommendation from the Historic Preservation Commission, shall not be located adjacent to the sending site and shall be described and depicted in the subdivision or planned development approvals granted by City Council. The total number of floor area increases permitted within the subdivision or planned development shall not exceed an aggregate total of one (1) per non-historic residence within the entire subdivision or planned development.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 11.a, above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded up to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.050 Moderate-Density Residential (R-15).

A. **Purpose.** The purpose of the Moderate-Density Residential (R-15) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Moderate-Density Residential (R-15) Zone District typically consist of additions to the Aspen Townsite and subdivisions on the periphery of the City. Lands within the Townsite which border Aspen Mountain are also included in the Moderate-Density Residential (R-15) Zone District.

B. **Permitted uses.** The following uses are permitted as of right in the Moderate-Density Residential (R-15) Zone District.

1. Detached residential dwelling.
2. Duplex.
3. Two detached residential dwellings.
4. Triplex or Fourplex, if 100% Deed-Restricted Affordable Housing.
5. Existing multi-family housing, if 100% Deed-Restricted Affordable Housing. Existing multi-family housing that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of section 26.520.040

C. **Conditional uses.** The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.
7. For historic landmark properties: bed and breakfast and boardinghouse.
D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15) Zone District.

1. **Minimum Gross Lot Area (square feet):** fifteen thousand (15,000). For lots created by Section 26.480.060.B, Historic landmark lot split: three thousand (3,000). For properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. *Detached residential dwelling:* 15,000. For historic landmark properties: 3,000.
   b. *Duplex:* 7,500. For historic landmark properties: 3,000.
   c. *100% Deed-Restricted Affordable Housing; triplex, fourplex:* No requirement.
   d. *100% Deed-Restricted Affordable Housing; existing multifamily:* No requirement.
   e. *Bed and breakfast, boardinghouse:* No requirement.

3. **Minimum lot width (feet):** Seventy-five (75). For lots created by Section 26.480.030.A.4, Historic landmark lot split: Thirty (30). For lots proposed for 100% Deed-Restricted Affordable Housing: Thirty (30).

3. **Minimum front yard setback (feet):**
   b. *Accessory buildings and all other buildings:* thirty (30).

4. **Minimum side yard setback (feet):** Ten (10).

5. **Minimum rear yard setback (feet):**
   a. *Principal buildings:* 10
   b. *Accessory buildings:* 5

6. **Maximum height (feet):** Twenty-five (25).

7. **Minimum distance between detached buildings on the lot (feet):** Ten (10).

8. **Percent of open space required for building site:** No requirement.

9. **External floor area ratio (applies to conforming and nonconforming lots of record):**
   a. *Single-Family, Duplex or Two Detached Dwellings:*
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

* Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than twenty thousand (20,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:
i. Non-historic properties with a net lot area of 15,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 9.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.060 Moderate-Density Residential (R-15A).

A. Purpose. The purpose of the Moderate-Density Residential (R-15A) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Moderate-Density Residential (R-15A) Zone District are similarly situated to those in the Moderate-Density Residential (R-15) Zone District and are lands annexed from Pitkin County from Zone Districts in which duplexes are a prohibited use.

B. Permitted uses. The following uses are permitted as of right in the Moderate-Density Residential (R-15A) Zone District:

1. Detached residential dwelling.
2. Duplex, provided fifty percent (50%) of the duplex units are restricted to affordable housing.
3. Two (2) detached residential dwellings.
4. Triplex or Fourplex, if 100% Deed-Restricted Affordable Housing.
5. Existing multi-family housing, if 100% Deed-Restricted Affordable Housing. Existing multi-family housing that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of section 26.520.
9. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15A) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.
7. For historic landmark properties: bed and breakfast and boardinghouse.
D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15A) Zone District:

1. **Minimum Gross Lot Area (square feet):** fifteen thousand (15,000). For lots created by Subsection 26.480.060.B, Historic landmark lot split: three thousand (3,000). For properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. *Detached residential dwelling:* 15,000. For historic landmark properties: three thousand (3,000).
   b. *Duplex:* 7,500. For historic landmark properties: 3,000.
   c. *100% Deed-Restricted Affordable Housing; triplex, fourplex:* No requirement.
   d. *100% Deed-Restricted Affordable Housing; existing multifamily:* No requirement.
   e. *Bed and breakfast, boardinghouse:* No requirement.

4. **Minimum lot width (feet):** seventy-five (75) feet. For lots created by Subsection 26.480.030.A.4, Historic landmark lot split: thirty (30). For lots proposed for 100% Deed-Restricted Affordable Housing: Thirty: (30)

3. **A minimum front yard setback (feet):**
   b. *Accessory buildings and all other buildings:* thirty (30).

5. **Minimum side yard setback (feet):** 10.

6. **Minimum rear yard setback (feet):**
   b. *Accessory buildings and all other buildings:* five (5).

7. **Maximum height (feet):** twenty-five (25).

8. **Minimum distance between principal and accessory buildings (feet):** ten (10).

9. **Percent of open space required for building site:** No requirement.

10. **Floor area ratio (applies to conforming and nonconforming lots of record):**
    a. Single-Family, Duplex or Two Detached Dwellings
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

* Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than twenty thousand (20,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No
more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

i. Non-historic properties with a net lot area of 15,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 10.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.070 Moderate-Density Residential (R-15B).

A. Purpose. The purpose of the Moderate-Density Residential (R-15B) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Lands in the Moderate-Density Residential (R-15B) Zone District are similarly situated to those in the Moderate-Density Residential (R-15) and (R-15A) Zone Districts, but are those in which single-family structures are a permitted use and duplexes are prohibited.

B. Permitted uses. The following uses are permitted as of right in the Moderate-Density Residential (R-15B) Zone District:

1. Detached residential dwelling.
2. Home occupations.
3. Accessory buildings and uses.

C. Conditional uses. The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15B) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Agricultural uses.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15B) Zone District:

1. Minimum Gross Lot Area (square feet): fifteen thousand (15,000).
2. Minimum Net Lot Area per dwelling unit (square feet): fifteen thousand (15,000).
3. Minimum lot width (feet): seventy-five (75).
4. Minimum front yard setback (feet): thirty (30). For properties located between Eastwood Drive and Highway 82 (Lots 6-19, Eastwood Subdivision) and properties located on the northwest portion of Skimming Lane (Lots 8-11, Block 1, Aspen Grove subdivision): ten (10).
5. Minimum side yard setback (feet): five (5).
6. Minimum rear yard setback (feet):
   a. Residential dwellings: ten (10)
   b. Accessory buildings and all other buildings: five (5).

For properties located between Eastwood Drive and Highway 82 (Lots 6-19, Eastwood Subdivision) and properties located on the northwest portion of Skimming Lane (Lots 8-11, Block 1, Aspen Grove subdivision): thirty (30).
9. Percent of open space required for building site: No requirement.

10. Floor area ratio (applies to conforming and nonconforming lots of record):

<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 1,680 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>1,680 square feet of floor area, plus 20 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 2,880 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>2,880 square feet of floor area plus 5 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,180 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>3,180 square feet of floor area, plus 4 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,580 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>4,580 square feet of floor area, plus 1 square foot of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. No more than one (1) floor area increase shall be allowed per residence. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase.

26.710.080 Low-Density Residential (R-30).

A. Purpose. The purpose of the Low-Density Residential (R-30) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Low-Density Residential (R-30) Zone District are typically located along river frontages in outlying areas of the City.

B. Permitted uses. The following uses are permitted as of right in the Low-Density Residential (R-30) Zone District:

1. Detached residential dwelling.
2. Duplex.
3. Triplex or Fourplex, if 100% Deed-Restricted Affordable Housing.
4. Existing multi-family housing, if 100% Deed-Restricted Affordable Housing. Existing multi-family housing that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
5. Home occupations.
6. Accessory buildings and uses.
7. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
8. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Low-Density Residential (R-30) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Low-Density Residential (R-30) Zone District:

1. Minimum Gross Lot Area (square feet): thirty thousand (30,000).
2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Detached residential dwelling: thirty thousand (30,000).
b. Duplex: fifteen thousand (15,000).

c. 100% Deed-Restricted Affordable Housing; triplex, fourplex: No requirement.

d. 100% Deed-Restricted Affordable Housing; existing multifamily: No requirement.

3. Minimum lot width (feet): one hundred (100). For lots proposed for 100% Deed-Restricted Affordable Housing: Thirty (30)

4. Minimum front yard setback (feet):
   b. Accessory buildings and all other buildings: thirty (30).

5. Minimum side yard setback (feet): ten (10).

6. Minimum rear yard setback (feet):
   a. Residential dwellings: fifteen (15).
   b. Accessory buildings: five (5).
   c. All other buildings: thirty (30).


9. Percent of open space required for building site: No requirement.

10. Floor area ratio (applies to conforming and nonconforming lots of record):
    a. Single-Family and Duplex
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence</th>
<th>Allowable Floor Area for Duplex</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
</tr>
</tbody>
</table>

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the Inventory of Historic Landmark Sites and Structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

i. Non-historic properties with a net lot area of 30,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.
b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 10.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.090 Residential Multi-Family (RMF).

A. **Purpose.** The purpose of the Residential Multi-Family (RMF) Zone District is to provide for the use of land for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Residential Multi-Family (RMF) Zone District are typically those found in the Aspen infill area, within walking distance of the center of the City or lands on transit routes and other lands with existing concentrations of attached residential dwellings and mixed attached and detached residential dwellings.

B. **Permitted uses.** The following uses are permitted as of right in the Residential Multi-Family (RMF) Zone District:

1. Detached residential dwelling.
2. Two (2) detached residential dwellings.
3. Duplex dwelling.
4. Multi-family dwellings.
5. Home occupations.
6. Accessory buildings and uses.
7. Dormitory.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
9. For historic landmark properties: bed and breakfast.

C. **Conditional uses.** The following uses are permitted as conditional uses in the Residential Multi-Family (RMF) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Residential Multi-Family (RMF) Zone District:

1. Minimum Gross Lot Area (square feet): six thousand (6,000). For lots created by Paragraph 26.480.030.A.4, Historic landmark lot split: three thousand (3,000). For
properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Detached residential dwelling: four thousand five hundred (4,500). For historic landmark properties: three thousand (3,000).
   b. Duplex dwelling unit: four thousand five hundred (4,500). For historic landmark properties: three thousand (3,000).
   c. Multi-family dwellings: No requirement.
   d. Bed and breakfast: No requirement.

3. Minimum lot width (feet): sixty (60). For lots created by Paragraph 26.480.060.B, Historic landmark lot split: thirty (30). For lots containing or proposed for 100% Deed-Restricted Affordable Housing: Thirty: (30)

4. Minimum front yard setback (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: five (5).

5. Minimum side yard setback (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: five (5).

6. Minimum rear yard setback (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: five (5).

7. Maximum height (according to density) (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family – parcel density less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: twenty-five (25).
   c. Multi-family – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: thirty-two (32).

8. Minimum distance between buildings on the lot (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: No requirement. (Building and Fire Codes may apply.)


10. Floor area ratio (FAR). This Paragraph applies to each type of use according to density and applies to conforming and nonconforming lots of record.
a. *Existing detached residential and duplex dwellings*: one hundred percent (100%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

b. *New or replacement after demolition detached residential and duplex dwellings*: eighty percent (80%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

c. *Multi-family* – parcel density of less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 0.75:1.

d. *Multi-family* – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 1.25:1.

e. *Multi-family* – parcel density equal to or greater than one (1) unit per seven hundred fifty (750) square feet of Gross Lot Area: 1.5:1.

11. **Maximum multi-family unit size (square feet):** For properties in the Aspen infill area, two thousand (2,000) square feet of net livable area. For properties outside the Aspen infill area, two thousand five hundred (2,500) square feet of net livable area.

   a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:
      
      1) The transfer ratio is five hundred (500) square feet of net livable area for each certificate that is purchased.

      2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is two thousand five hundred (2,500) square feet of net livable area for properties within the Aspen infill area and three thousand (3,000) square feet of net livable area for properties outside the Aspen infill area (i.e., no more than five hundred [500] additional square feet may be applied per unit).

      3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the floor area ratio (FAR) of the lot.

     *Commentary:* Refer to Chapter 26.535 for the procedures for extinguishing certificates.

26.710.100 Residential Multi-Family-A (RMFA).

A. Purpose. The purpose of the Residential Multi-Family-A (RMFA) Zone District is to provide for the use of land for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Residential Multi-Family-A (RMFA) Zone District are typically those found in the Aspen infill area, within walking distance of the center of the City or lands on transit routes and other lands with existing concentrations of attached residential dwellings and mixed attached and detached residential dwellings.

B. Permitted uses. The following uses are permitted as of right in the Residential Multi-Family-A (RMFA) Zone District:

1. Detached residential dwelling.
2. Two (2) detached residential dwellings.
3. Duplex dwelling.
4. Multi-family dwellings.
5. Home occupations.
6. Accessory buildings and uses.
7. Dormitory.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
9. For historic landmark properties: bed and breakfast.
10. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Residential Multi-Family-A (RMFA) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Residential Multi-Family-A (RMFA) Zone District:
1. **Minimum Gross Lot Area (square feet):** six thousand (6,000). For historic landmark properties: three thousand (3,000). For properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. *Detached residential dwelling:* 4,500. For historic landmark properties: 3,000.
   b. *Duplex dwelling unit:* 4,500. For historic landmark properties: 3,000.
   c. *Multi-family dwellings:* No requirement.
   d. *Bed and breakfast:* No requirement.

3. **Minimum lot width (feet):** sixty (60). For historic landmark properties: thirty (30). For lots containing or proposed for 100% Deed-Restricted Affordable Housing: Thirty: (30)

4. **Minimum front yard setback (feet):**
   a. *Detached residential and duplex dwellings:* Same as R-6 Zone District.
   b. *Multi-family:* 5.

5. **Minimum side yard setback (feet):**
   a. *Detached residential and duplex dwellings:* Same as R-6 Zone District.
   b. *Multi-family:* 5.

6. **Minimum rear yard setback (feet):**
   a. *Detached residential and duplex dwellings:* Same as R-6 Zone District.
   b. *Multi-family:* 5.

7. **Maximum height (according to density) (feet):**
   a. *Detached residential and duplex dwellings:* Same as R-6 Zone District.
   b. *Multi-family* – parcel density less than one (1) unit per 1,500 square feet of Gross Lot Area: 25.
   c. *Multi-family* – parcel density equal to or greater than one (1) unit per 1,500 square feet of Gross Lot Area: 32.

8. **Minimum distance between buildings on the lot (feet):**
   a. *Detached residential and duplex dwellings:* Same as R-6 Zone District.
   b. *Multi-family:* No requirement. (Building and Fire Codes may apply).

9. **Public amenity space:** Pursuant to Section 26.575.030.

10. **Floor area ratio (FAR).** This Paragraph applies to each type of use according to density and applies to conforming and nonconforming lots of record:
    a. *Existing detached residential and duplex dwellings:* One hundred percent (100%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone.
b. **New or replacement after demolition detached residential and duplex dwellings:**
   Eighty percent (80%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

c. **Multi-family** – parcel density of less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 0.75:1.

d. **Multi-family** – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 1.25:1.

e. **Multi-family** – parcel density equal to or greater than one (1) unit per seven hundred fifty (750) square feet of Gross Lot Area: 1.5:1.

10. Maximum multi-family unit size (square feet):
    For properties in the Aspen infill area, two thousand (2,000) square feet of net livable area. For properties outside the Aspen infill area, two thousand five hundred (2,500) square feet of net livable area.

    a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

        1) The transfer ratio is 500 square feet of net livable area for each certificate that is purchased.

        2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area for properties within the Aspen infill area and 3,000 square feet of net livable area for properties outside the Aspen infill area (i.e., no more than five hundred [500] additional square feet may be applied per unit).

        3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the floor area ratio (FAR) of the lot.

Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates.

26.710.110 Affordable Housing/Planned Development (AH/PD).

A. Purpose. The purpose of the Affordable Housing/Planned Development (AH/PD) Zone District is to provide for the use of land for the production of category affordable housing and resident occupied lots and units. The Zone District also permits a limited component of free market lots/units to offset the cost of developing affordable housing. It is contemplated that land may also be subdivided in connection with a development plan. The AH/PD Zone District is intended for residential use primarily by permanent residents of the community and in some instances allows for Short-term Rentals. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the AH/PD Zone District should be scattered throughout the City to ensure a mix of housing types, including those which are affordable by its working residents; at the same time the AH/PD Zone District can protect the City's neighborhoods from rezoning pressures that other non-community-oriented Zone Districts may produce. Further, lands in the AH/PD Zone District should be located within walking distance of the center of the City or on transit routes.

B. Permitted uses. The following uses are permitted as of right in the AH/PD Zone District:

1. Residential uses restricted to category affordable housing guidelines and resident occupied units which comply with the following requirements:
   a. Minimum bedroom mix. A minimum of seventy percent (70%) of the project's total bedrooms shall be deed restricted affordable housing consistent with the Affordable Housing Guidelines. The mix between categories of housing shall be consistent with the Affordable Housing Guidelines. The remaining bedrooms that are not deed restricted to affordable housing may be free market residential units.
   b. Permissible reduction in bedroom mix for exemplary projects. A project may be eligible for a reduction of the minimum affordable housing bedroom mix requirement to a level of sixty percent (60%) of the project's total bedrooms if the applicant can demonstrate to the satisfaction of the City Council that the project meets the requirements for an exceptional project as set forth in the Affordable Housing Guidelines.

2. Home occupations.

3. Accessory buildings and uses.

4. Accessory dwelling units meeting the provisions of Chapter 26.520.

5. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The followings uses are permitted as conditional uses in the Affordable Housing (AH) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Park and open use recreation site.

2. Child care center.
4. Dormitory.
5. Transit facilities.

D. **Dimensional requirements.** The following dimensional requirements shall be established by adoption of a Final PD Development Plan and shall apply to all permitted and conditional uses in the Planned Development:

1. **Minimum Gross Lot Area.**
2. **Minimum Net Lot Area per dwelling unit.**
3. **Maximum allowable density.**
4. **Minimum lot width.**
6. **Minimum front yard.**
7. **Minimum side yard.**
8. **Minimum rear yard.**
9. **Maximum site coverage.**
10. **Maximum height (including view planes).**
11. **Minimum distance between buildings on the lot.**
12. **Minimum percent open space required for the building site.**
13. **Trash access area.**
14. **Allowable floor area.**
15. **Minimum off-street parking spaces.**
16. **Other dimensions determined necessary to establish through the PD process.**

**Note #1:** The maximum allowable density permitted in this zone shall be established by adoption of a Final PD Development Plan by using the following table applied to the proposed fathering parcel as a guide:
<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Minimum Net Lot Area* Per Dwelling Unit (Square Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dormitory</td>
<td>300</td>
</tr>
<tr>
<td>Studio</td>
<td>400</td>
</tr>
<tr>
<td>One Bedroom</td>
<td>500</td>
</tr>
<tr>
<td>Two Bedroom</td>
<td>1000</td>
</tr>
<tr>
<td>Three Bedroom</td>
<td>1500</td>
</tr>
<tr>
<td>3+ Bedrooms</td>
<td>500 /Bedroom</td>
</tr>
</tbody>
</table>

Note #2: The allowable floor area permitted in this zone shall be established by adoption of a Final PD Development Plan by using the following table applied to the proposed fathering parcel as a guide:

<table>
<thead>
<tr>
<th>Fathering Parcel Net Lot Area*</th>
<th>Allowable Floor Area Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—15,000 square feet</td>
<td>1.1:1</td>
</tr>
<tr>
<td>15,001—25,000 square feet</td>
<td>1:1</td>
</tr>
<tr>
<td>25,001—43,560 square feet</td>
<td>.8:1</td>
</tr>
<tr>
<td>&gt;1 acre—3 acres</td>
<td>.6:1</td>
</tr>
<tr>
<td>&gt;3 acres—6 acres</td>
<td>.36:1</td>
</tr>
<tr>
<td>&gt;6 acres</td>
<td>.3:1</td>
</tr>
</tbody>
</table>

* Net Lot Area as defined in the Land Use Code.

(Ord. No. 27-2010, §4; Ord. No. 34-2011, §10)
26.710.120 High Density Residential (R-3).
A. **Purpose.** The purpose of the High Density Residential (R-3) Zone District is to provide for the use of land to locate manufactured housing for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses and less intensive office uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. The High Density Residential (R-3) Zone District shall be located in areas where the effect on surrounding property shall be minimized, where the health, safety and general welfare of the High Density Residential (R-3) Zone District residents and others will be protected and where the topography is suitable for the permitted uses and conditional uses allowed in the High Density Residential (R-3) Zone District.

B. **Permitted uses.** The following uses are permitted as of right in the High Density Residential (R-3) Zone District:

1. Mobile home park.
2. Home occupations.
3. Accessory buildings and uses.
4. Accessory dwelling units meeting the provisions of Chapter 26.520.

C. **Conditional uses.** The following uses are permitted as conditional uses in the High Density Residential (R-3) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Park and open use recreation site.
2. Public and private academic school.
3. Church.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the High Density Residential (R-3) Zone District:

1. **Minimum Gross Lot Area:** three thousand (3,000) square feet.
2. **Minimum Net Lot Area per dwelling unit:** three thousand (3,000) square feet.
3. **Minimum lot width:** forty (40) feet.
4. **Minimum front yard setback:** five (5) feet (excluding hitch on mobile home).
5. **Minimum side yard setback:** five (5) feet.
6. **Minimum rear yard setback:** five (5) feet.
7. **Maximum height:**
Administrative service buildings: twenty-five (25) feet.

All other structures: fifteen (15) feet.

8. Minimum distance between principal and accessory buildings: five (5) feet.

9. Percent of open space required for building site: No requirement.

10. External floor area ratio: No requirement.

26.710.130 Rural Residential (RR).

A. Purpose. The purpose of the Rural Residential (RR) Zone District is to allow utilization of land for low density, long-term residential and Short-term Rentals purposes with the recreational, institutional, public and other compatible uses customarily found in proximity to those uses allowed as permitted uses or conditional uses.

B. Permitted uses. The following uses are permitted as of right in the Rural Residential (RR) Zone District:

1. Detached residential dwelling.
2. Farm building and use, provided that all such buildings and storage areas are located at least one hundred (100) feet from pre-existing dwellings on other lots.
5. Home occupations.
6. Accessory buildings and uses.
7. Accessory dwelling units meeting the provisions of Section 26.520.040.
8. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Rural Residential (RR) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Public building.
2. Public and private academic school.
3. Church.
4. Radio tower.
5. Recreation club.
7. Park and open use recreation site including ski runs, ski lifts and other skiing facilities and structures.
8. Sewage disposal.
10. Electric substation or gas regulator station (not including building for offices, repair or storage).
11. Veterinary clinic.
D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Rural Residential (RR) Zone District:

1. **Minimum Gross Lot Area**: two (2) acres.
2. **Minimum Net Lot Area per dwelling unit**: two (2) acres.
3. **Minimum lot width**: two hundred (200) feet.
4. **Minimum front yard setback**: thirty (30) feet.
5. **Minimum side yard setback**: twenty (20) feet.
6. **Minimum rear yard setback**: twenty (20) feet.
7. **Maximum height**: twenty-eight (28) feet.
8. **Minimum distance between principal and accessory buildings**: No requirement.
9. **Percent of open space required for building site**: No requirement.
10. **External floor area ratio (applies to conforming and nonconforming lots of record)**: same as R-15 Zone District.

(Ord. No. 56-2000, § 3; Ord. No. 25-2001, § 3; Ord. No. 27-2010, §4; Ord. No. 34-2011, §12)
26.710.140 Commercial Core (CC).

A. Purpose. The Commercial Core (CC) serves as the highest intensity commercial area, fulfilling the policies of the Aspen Area Community Plan geared towards a strong and sustainable local and visitor economy, a diversity of commercial opportunities and the maintenance of Aspen’s historic character. The CC zone provides for the use of land for retail, service, commercial, and institutional purposes within mixed-use buildings oriented to local and tourist populations. The balance of uses is designed to enhance the business and commercial character in the historic core of the City and provide commercial opportunities proximate to multi-modal transit infrastructure. This mix of uses creates economic, cultural and social vitality,

B. Permitted uses. The following uses are permitted by right in the Commercial Core (CC) Zone District:

1. Uses allowed on basement floors: General retail, specialty retail, restaurant, bar and entertainment uses, office uses, and building elements necessary and incidental to uses on other floors. Lodging uses, only when the entire building is dedicated to lodging and associated commercial use.

2. Uses allowed on the ground floor: General retail, specialty retail, restaurant, bar and entertainment uses, and uses and building elements necessary and incidental to uses on other floors. Lodging uses, only when the entire building is dedicated to lodging and associated commercial use. Office uses are prohibited on the ground floor except within spaces set back a minimum of forty (40) feet from the front property line and recessed behind the front-most street-facing façade. This prohibition shall not apply to split-level buildings (see definition) or properties north of Main Street. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

3. Uses allowed on upper floors: General retail, specialty retail, restaurant, bar and entertainment uses, office uses, lodging, and affordable multi-family housing.

4. Uses allowed on all floors: General retail, specialty retail, restaurant, bar and entertainment uses, arts, cultural, civic and community uses, public uses, academic uses, service uses, accessory uses and structures, storage accessory to a permitted use, and uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use.

5. Free-Market Residential Units: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 25 (Series of 2012).

6. Affordable Housing Units: Affordable housing is permitted by right on upper floors.
7. **Home Occupations and Short-term Rentals:** Home Occupations and Short-Term Rentals are permitted only in legally established residential units.

C. **Conditional uses.** The following uses are permitted as conditional uses in the Commercial Core (CC) Zone District, subject to the standards and procedures established in Chapter 26.425:
   1. Gasoline service station.
   2. Commercial parking facility, pursuant to Chapter 26.515.
   3. Automobile showroom and dealership.
   4. Formula uses, which shall be subject to the provisions contained in Section 26.425.045.
   5. Lodge, Boutique.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial Core (CC) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

   1. **Minimum Gross Lot Area (square feet):** No requirement.
   2. **Minimum Net Lot Area per dwelling unit (square feet):** No requirement.
   3. **Minimum lot width (feet):** No requirement.
   4. **Minimum front yard setback (feet):** No requirement.
   5. **Minimum side yard setback (feet):** No requirement.
   6. **Minimum rear yard setback (feet):** No requirement.
   7. **Minimum utility/trash/recycle area:** Pursuant to Chapter 12.06.
   8. **Maximum height (feet):** Twenty-eight (28) feet.
   9. **Minimum distance between buildings on the lot (feet):** No requirement.
   10. **Public amenity space:** Pursuant to Section 26.412.
   11. **Floor area ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.25:1.
       a. **Commercial uses:** 2.25:1.
b. Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, child care center and similar uses: 2:1.

c. Affordable multi-family housing: Greater of existing FAR or 1:1.

d. Lodging: 0.5:1, which may be increased to 1.5:1 if the individual lodge units on the parcel average five hundred (500) net livable square feet or less, which may be comprised of lock-off units.

e. Free-Market multi-family housing: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted, except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as noted above.

12. Maximum lodge unit size (square feet): 1,500. When units are comprised of lock-off units, this maximum shall apply to the largest possible combination of units.

13. Net Livable Area (square feet):
   a) Category 1-5 Affordable multi-family housing: No limitation.

   b) Resident Occupied Affordable multi-family housing: Individual units shall be limited to 2,000 square feet of net livable area.

   c) Free-Market Residential: Overall net livable area for a building or project is limited to the existing net livable square footage. No expansion to overall net livable area shall be permitted, except for as described below. Any subsequent reduction in net livable area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater net livable area. Individual units shall be limited to 2,000 square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

   d) Expansions Allowed: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
      1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.
      2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).
3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

14. Commercial/residential ratio: When development includes mixed-uses, the total residential net livable area shall be no greater than 65% of the total above-grade commercial net leasable and lodge net livable area on the same parcel.

Compliance with City of Aspen Charter. Any property located east of Castle Creek that was in the Commercial Core (CC) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

Purpose. The Commercial (C-1) zone district provides for a diversity of commercial uses in mixed-use buildings outside of the historic context of the Commercial Core (CC) zone district. The C-1 zone advances Aspen Area Community Plan policies geared toward a strong and sustainable local and visitor economy, a diversity of commercial opportunities and the maintenance of Aspen as a recreation and cultural destination. The C-1 zone creates economic vitality by providing a mix of commercial uses with greater flexibility in architecture and design, enhancing Aspen’s community character. The C-1 creates a transition from the more intense activity of the CC zone district to the surrounding mixed-use, residential and lodge related uses.

B. Permitted uses. The following uses are permitted by right in the Commercial (C-1) Zone District:

1. **Uses allowed on all floors:** General retail, specialty retail, restaurant, bar and entertainment uses, service uses, lodging uses, office uses, arts, cultural, civic and community uses, public uses, recreational uses, academic uses, bed and breakfast, accessory uses and structures, and uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use, storage accessory to a permitted use. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

2. **Uses allowed on upper floors:** Affordable multi-family housing.

3. **Free-Market Residential Units:** No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 25 (Series of 2012).

4. **Affordable Housing Units:** Affordable housing is permitted by right.

5. **Home Occupations and Short-term Rentals:** Home Occupations and Short-term Rentals are permitted on any building level only in legally established residential units.

C. Conditional uses. The following uses are permitted as conditional uses in the Commercial (C-1) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Affordable multi-family housing or home occupations on the ground floor.
2. Commercial parking facility, pursuant to Section 26.515.
3. Automobile showroom and dealership.
4. Formula uses, which shall be subject to the provisions in Section 26.425.045.
5. Lodge, Boutique.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial (C-1) Zone District. The dimensional...
standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. Minimum Gross Lot Area (square feet):
   a. Bed and breakfast: 3,000.
   b. All other uses: No requirement.

2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.

3. Minimum lot width (feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.

4. Minimum front yard setback (feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.

5. Minimum side yard setback (feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.

6. Minimum rear yard setback (feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.

7. Minimum utility/trash/recycle area: Pursuant to chapter 12.06

8. Maximum height:
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: Twenty-Eight (28) feet

9. Minimum distance between buildings on the lot (feet):
   a. Bed and breakfast: Same as R-6 Zone District.
   b. All other uses: No requirement.


11. Floor area ratio (FAR): The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2:1.
b. Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, and similar uses: 1.75:1.

c. Affordable multi-family housing: Greater of existing FAR or 1:1

d. Lodging: .5:1, which may be increased to 1.5:1 if the individual lodge units on the parcel average five hundred (500) net livable square feet or less, which may be comprised of lock-off units.

e. Bed and breakfast (as the sole use of parcel and not cumulative with other uses): Eighty percent (80%) of allowable floor area of a same-sized lot located in the R-6 Zone District. (See R-6 Zone District.) Extinguishment of historic TDRs shall not permit additional FAR for single-family or duplex development.

f. Free-Market multi-family housing: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020.D, Measuring Floor Area, except as noted above.

12. Maximum lodge unit size (square feet): 1,500. When units are comprised of lock-off units, this maximum shall apply to the largest possible combination of units.

13. Net Livable Area (square feet):
   a) Category 1-5 Affordable multi-family housing: No limitation.

   b) Resident Occupied Affordable multi-family housing: Individual units shall be limited to 2,000 square feet of net livable area.

   c) Free-Market Residential: Overall net livable area for a building or project is limited to the existing net livable square footage. No expansion to overall net livable area shall be permitted. Any subsequent reduction in net livable area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater net livable area. Individual units shall be limited to 2,000 square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

   d) Expansions Allowed: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

14. **Commercial/residential ratio:** When development includes mixed-uses, the total residential net livable area shall be no greater than 65% of the total commercial net leasable and lodge net livable area on the same parcel.

E. **Compliance with City of Aspen Charter.** Any property located east of Castle Creek that was in the Commercial (C-1) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.


A. Purpose. The S/C/I zone supports Aspen Area Community Plan policies related to a sustainable, local serving economy and the preservation of a diversity of commercial opportunities for locals and visitors. In response to the decreased intensity of commercial uses in the zone and relative distance from the CC and C1 zones, both multi-modal and automobile parking improvements are appropriate on site in the S/C/I. In order to enhance the City’s commercial diversity, the zone allows for uses not found in other zones including light industrial, manufacturing, production, repair and similar service-related uses. The S/C/I zone is designed to provide commercial space to those uses not appropriate in other commercial zones, but which provide an essential or unique service to support the local economy. Flexibility and adaptability are important features of the zone to respond to changing commercial sector dynamics and meet the space needs of the City’s service, creative and production economies.

B. Permitted and Conditional Uses.

1. The following uses may have, in combination, a limited percent of the floor area, devoted to retail sales, showroom, or customer reception, and such uses shall be ancillary to the primary commercial use. This floor area percentage may be increased through Special Review by the Planning and Zoning Commission, pursuant to Section 26.430.050, and according to the standards of Section 26.710.160.E.1.

<table>
<thead>
<tr>
<th>% retail sales, showroom, or customer reception (maximum – net leasable area)</th>
<th>Uses include the manufacturing, repair, customization, servicing, alteration, detailing, rental or sale of consumer goods, such as:</th>
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| 100% | • Vehicle sales.  
• Building materials, components, hardware, fixtures, interior finishes and equipment.  
• Fabric and sewing supply.  
• Household appliances such as ranges, refrigerators, dishwashers, etc.  
• Outdoor recreational items, which may be in combination with a service use related to guiding or touring. |
| 25% | • Animal boarding facility.  
• Animal grooming establishment.  
• Artist studio.  
• Brewery and brewing supply.  
• Coffee roasting and supply.  
• Commercial dry cleaning.  
• Commercial Kitchen or Bakery.  
• Design Studio (limited to the Andrews-McFarlin Subdivision).  
• Laundromat.  
• Locksmith. |
<table>
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<tr>
<th>% retail sales, showroom, or customer reception (maximum – net leasable area)</th>
<th>Uses include the manufacturing, repair, customization, servicing, alteration, detailing, rental or sale of consumer goods, such as:</th>
</tr>
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<tr>
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<td>• Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, or Marijuana Testing Facility.</td>
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<td>• Consumer electronics service and repair.</td>
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<td>• Post Office branch.</td>
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<td>• Printing and copy center.</td>
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<td>• Shipping, packing and receiving services.</td>
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<td>• Veterinary clinic.</td>
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<td>10%</td>
<td>• Automobile washing facility.</td>
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<td>• Building/landscape maintenance facility.</td>
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<td>• Warehousing and storage.</td>
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2. Primary Care Physician’s Office Uses permitted:
   a. On Upper Floors, pursuant to Section 26.710.160 (D)11(b).
   b. Limited to a cap of 3,500 square feet at the Obermeyer Place PD, upon execution of an Insubstantial PD Amendment.

3. Affordable Housing Units: Affordable housing is permitted as a mixed use with other approved S/C/I uses. See 26.710.160.D.11 for Affordable Housing FAR requirements. Additionally, the project must demonstrate that the residential use and individual units are substantially removed and physically separated from Commercial Uses on the same parcel, to the extent practicable, so as to isolate residential uses from commercial impacts and to adequately provide for on-loading, off-loading, circulation and parking for commercial uses.

4. Permitted Accessory Uses:
   a) Service yard accessory to a permitted use.
   b) Sales and rental accessory and incidental to a permitted use.
   c) Accessory buildings and uses.
   d) Home occupations and Short-term Rentals: Home Occupations and Short-term Rentals are permitted only in legally established residential units.
   e) Offices, accessory to a permitted or conditional use, may occupy up to 10% of a commercial unit.

C. Conditional uses. The following uses are permitted as conditional uses in the Service/Commercial/Industrial (SCI) zone district, subject to the procedures established in Chapter 26.425.050 Procedures for Review, and the standards established in Section 26.710.160.F.
1. **Free-Market Residential Units**: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 29, Series 2016.

2. Consignment retail establishment.

3. Commercial Parking Facility, pursuant to Section 26.515.

4. Gasoline service station.

5. Grocery store.

**D. Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Service/Commercial/Industrial (SCI) zone district. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. **Minimum Gross Lot Area (square feet):** 3,000

2. **Minimum Net Lot Area per dwelling unit (square feet):** No requirement.

3. **Minimum lot width (feet):** No requirement.

4. **Minimum front yard setback (feet):** No requirement.

5. **Minimum side yard setback (feet):** No requirement.

6. **Minimum rear yard setback (feet):** No requirement.

7. **Minimum Utility/Trash/Recycle area:** Pursuant to Chapter 12.06.

8. **Maximum height:** Thirty-five (35) feet.

9. **Minimum distance between buildings on the lot (feet):** No Requirement.

10. **Pedestrian Amenity Space:** Pursuant to Section 26.412.

11. **Floor Area Ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.25:1. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

   a. **Commercial Uses:** 2.25:1.
b. *Primary Care Physician's Office uses*: .25:1 FAR, only if a minimum of .75:1 FAR of Commercial uses, listed in Section 26.710.160(B)1-3, exist on the same parcel.

c. *Affordable Multi-Family Housing (as a mixed use)*: Greater of existing FAR or 1:1.

d. *Free-Market Multi-Family Housing*: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as noted above.

12. Maximum multi-family residential dwelling unit size (square feet):

   a) *Category 1-5 Affordable multi-family housing*: No limitation.

   b) *Resident Occupied Affordable multi-family housing*: Individual units shall be limited to 2,000 square feet of net livable area.

   c) *Free-Market multi-family housing*: Individual units shall be limited to 2,000 square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

   d) *Expansions Allowed*: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
      1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.
      2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).
      3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

E. *Special Review Standards*. Whenever the dimensional standards of a proposed development within the SCI Zone District are subject to Special Review, the development application shall be processed as a Special Review, pursuant to Section 26.430.050. The following additional criteria apply:
1. To increase the allowable percentage of interior space assigned to retail, showroom, or customer reception area, the applicant shall demonstrate the need and appropriateness for such additional space and shall demonstrate consistency with the purpose of the SCI Zone District.

2. The additional approved percentage for a specific use shall be limited to that use and not applicable to subsequent uses in the same space.

F. Conditional Use Review Standards.

1. Retail, Showroom or Customer Reception Area. In addition to meeting the standards in Chapter 26.425, Conditional Use, the following Standards shall be met:

   a. For consignment retail establishment, commercial parking facility (pursuant to Chapter 26.575), and gasoline service station, the Commission shall establish the appropriate amount of floor area to be devoted to retail sales, showroom, or customer reception as a condition of conditional use review.

   b. To establish the allowable percentage of interior space assigned to retail, showroom, or customer reception area, the applicant shall demonstrate the need and appropriateness for the space and shall demonstrate consistency with the purpose of the SCI Zone District. The approved percentage for a specific use is limited to that use and not applicable to subsequent uses in the same space.

G. Compliance with City of Aspen Charter. Any property located east of Castle Creek that was in the Service/Commercial/Industrial (S/C/I) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

(Ord. No. 2-1999, §1; Ord. No. 22-2005, §1; Ord. No. 4-2008; Ord. No. 27-2010, §4; Ord. No. 39-2013, §3; Ord. No. 20-2015, §4; Ord. No. 29, 2016, §3)
26.710.170 Neighborhood Commercial (NC).

A. Purpose. The Neighborhood Commercial (NC) zone supports Aspen Area Community Plan policies related to a sustainable, local serving economy and the preservation of a diversity of commercial opportunities for locals and visitors. The zone district provides opportunities for mixed-use development in close proximity to downtown at higher intensity than the Mixed Use or surrounding residential neighborhood zone districts. The NC allows for a mix of essential goods and services oriented businesses in close proximity to multi-modal transit infrastructure.

The mix of uses in the NC is designed to provide for the daily needs of residents and visitors in a built environment that enhances the community character of Aspen. Greater design flexibility and increased setbacks from the CC and C1 zones allows for mixed-use development which creates a transition from the downtown commercial areas and can accommodate retail, service commercial, food service and related uses in conjunction with affordable housing on upper floors as an ancillary use to the primarily commercial purpose of the zone. Limited on-site parking is appropriate in conjunction with high traffic volume or residential uses and in addition to multi-modal improvements.

B. Permitted uses. The following uses are permitted as of right in the Neighborhood Commercial (NC) Zone District:

1. Uses allowed on all building levels: General retail, restaurant, bar and entertainment uses, service uses, office uses, arts, cultural, civic and community uses, public uses, recreational uses, academic uses, accessory uses and structures, uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use, storage accessory to a permitted use.

2. Uses allowed on upper floors: Affordable multi-family housing.

3. Free-Market Residential Units: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order (prior to Ordinance 29, Series of 2016).

4. Home Occupations and Short-term Rentals: Home Occupations and Short-term Rentals are permitted only in legally established residential units.

C. Conditional uses. The following uses are permitted as conditional uses in the Neighborhood Commercial (NC) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Commercial parking facility, pursuant to Chapter 26.515.
2. Automobile showroom and dealership.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Neighborhood Commercial (NC) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use
developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. Minimum Gross Lot Area (square feet): No requirement.

2. Minimum Net Lot Area per dwelling unit (square feet): No requirement.


4. Minimum front yard setback (feet): five (5).

5. Minimum side yard setback (feet): five (5).

6. Minimum rear yard setback (feet): five (5).

7. Minimum utility/trash/recycle area: Pursuant to Chapter 12.06.


11. Floor area ratio (FAR): The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 1.5:1. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.
   b. Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, and similar uses: 1:1.
   c. Affordable multi-family housing: Greater of existing FAR and .5:1.
   d. Free-market multi-family housing: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as noted above.
12. Maximum multi-family residential dwelling size (square feet):

a) **Category 1-5 Affordable multi-family housing:** No limitation.

b) **Resident Occupied Affordable multi-family housing:** Individual units shall be limited to 1,500 square feet of net livable area.

c) **Free-Market multi-family housing:** Individual units shall be limited one thousand five hundred (1,500) square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

d) **Expansions Allowed:** Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
   1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.
   2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).
   3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

13. Commercial/residential ratio: When development includes mixed-uses the total residential net livable area shall be no greater than 65% of the total commercial net leasable and lodging net livable on the same parcel.

E. Compliance with City of Aspen Charter. Any property located east of Castle Creek that was in the Neighborhood Commercial (NC) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.180 Mixed-Use (MU).
A. Purpose. The Mixed Use (MU) zone serves as a transition from the more intense commercial areas of the CC and C-1 zones, and the residential and lodging zones surrounding Main Street. By allowing for a mix of commercial and residential uses and smaller-scale development, the Mixed Use zone reflects Aspen’s historic character and provides different economic and residential opportunities from more traditional commercial zones. Particularly along Main Street, the Mixed Use zone serves as a buffer from the traffic of Highway 82 while allowing for smaller scale commercial and residential opportunities.

Buildings in the Mixed Use zone consist primarily of commercial, service and office uses on the ground floor, and residential and office uses on upper floors and off of the primary street frontage. Uses in the MU zone should not erode the character of the neighborhood or create excessive impacts to the surrounding residential and lodging zone. Standalone residential uses are permitted on properties as a reflection of the historic residential nature of the zone district.

B. Permitted uses. The following uses are permitted as of right in the Mixed-Use (MU) Zone District:
1. On historic landmark properties: Bed and breakfast.
2. General retail uses.
3. Specialty retail uses.
4. Restaurant, bar and entertainment uses.
5. Service uses.
6. Office uses.
7. Lodging.
8. Arts, cultural, civic and community uses.
10. Recreational uses.
11. Academic uses.
12. Affordable multi-family residential.
13. Free-Market Residential Units: No new Free-Market Residential Units (single-family, duplex, multi-family) may be established. Free-Market Residential units are permitted if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to the effective date of Ordinance 13 (Series of 2022). Demolition of existing free-market residential uses shall be subject to 26.312.020, Non-Conforming uses.
14. Accessory dwelling unit in a separate building accessed off the rear of a lot as an accessory use, meeting the provisions of Chapter 26.520.
15. Home occupations.
16. Accessory uses and structures.
17. Storage accessory to a permitted use.
18. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Mixed-Use (MU) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Commercial parking facility, pursuant to Chapter 26.515.
2. Automobile showroom and dealership.
3. Formula uses in the Main Street Historic District, subject to the provisions contained in Section 26.425.045.
4. Lodge, Boutique.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Mixed-Use (MU) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. Minimum Gross Lot Area (square feet): 3,000.

2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Detached residential dwellings: 4,500. 3,000 for historic landmark properties.
   b. Duplex dwellings (square feet): 4,500. 3,000 for historic landmark properties.
   c. All other uses: Not applicable.


4. Minimum front yard setback (feet): 10, which may be reduced to 5, pursuant to Special Review, Chapter 26.430.


7. Minimum utility/trash/recycle area: Pursuant to Chapter 12.06.

8. Maximum height:
   a. Detached residential and duplex dwellings: 25 feet.
   b. All other uses: 28 feet.


11. Floor Area Ratio (FAR):
   a. The following FAR schedule applies to uses cumulatively and individually when part of a commercial, lodging, or mixed-use development, as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum (allowed by right)</th>
<th>Maximum by special review (see Subsection 26.430.040.A)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Main Street Historic District</td>
</tr>
<tr>
<td>Cumulative total of all uses</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Commercial</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Civic</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Lodging</td>
<td>0.75:1</td>
<td>1:1</td>
</tr>
<tr>
<td>Affordable Housing</td>
<td>Maximum (allowed by right)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Main Street Historic District: 1.25:1; All other locations: 1.5:1</td>
<td>N/A</td>
</tr>
</tbody>
</table>

b. *Free-Market multi-family housing*: Limited to the existing free-market as calculated per 26.575.020.D. No expansion shall be permitted, except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), *Measuring Floor Area*, except as noted above. City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

12. Maximum multi-family residential dwelling unit size (square feet):
   a) *Category 1-5 Affordable multi-family housing*: No limitation.
   
   b) *Resident Occupied Affordable multi-family housing*: Individual units shall be limited to 2,000 square feet of net livable area.
   
   c) *Free-Market multi-family housing*: Individual units shall be limited to 2,000 square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.
d) **Expansions Allowed:** Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:

1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

13. **Commercial/residential ratio:** When development includes mixed-uses, the total residential net livable area shall be no greater than 150% the total commercial net leasable and lodging net livable area located on the same parcel.

**E. Compliance with City of Aspen Charter.** Any property located east of Castle Creek that was in the Mixed-Use (MU) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.190 Lodge (L).

A. Purpose. The purpose of the Lodge (L) Zone District is to encourage construction, renovation and operation of lodges, tourist-oriented multi-family buildings through Short-term Rentals, high occupancy timeshare facilities and ancillary uses compatible with lodging to support and enhance the City's resort economy. The City encourages high-occupancy lodging development in this zone district. Therefore, certain dimensional incentives are provided in this zone district, as well as other development incentives in Chapter 26.470, Growth Management Quota System (GMQS).

B. Permitted uses. The following uses are permitted as of right in the Lodge (L) Zone District:
   1. Hotel or lodge.
   2. Timeshare lodge.
   3. Exempt timesharing.
   4. Offices and activities accessory to timeshare unit sales (see Section 26.590).
   5. Bed and breakfast.
   7. Uses associated with outdoor recreation facilities and events.
   8. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
   9. Storage accessory to a permitted use.
  10. Affordable multi-family housing accessory to a lodging or timeshare operation and for employees of the operation.
  11. Deed-Restricted Affordable Housing, multi-family
  13. Home occupations.
  14. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Lodge (L) Zone District, subject to the standards and procedures established in Chapter 26.425:

   1. Retail and restaurant uses.
   2. Neighborhood commercial uses.
   3. Service uses.
   4. Arts, cultural and civic uses.
5. Public uses.
6. Academic uses.
8. Commercial parking facility, pursuant to Chapter 26.515.
9. Formula uses, which shall be subject to the provisions contained in Section 26.425.045.
10. Lodge, Boutique.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Lodge (L) Zone District:

1. **Minimum Gross Lot Area (square feet):** 3,000.
2. **Minimum Net Lot Area per dwelling unit (square feet):**
   b. *Affordable multi-family residential:* No requirement.
   c. *Lodge, timeshare lodge and exempt timesharing:* No requirement.
3. **Minimum lot width (feet):** 30.
4. **Minimum front yard setback (feet):** 5.
5. **Minimum side yard setback (feet):** 5.
6. **Minimum rear yard setback (feet):** 5.
7. **Minimum utility/trash/recycle area:** pursuant to Section 26.575.060.
8. **Maximum height:**
   a. *Bed and breakfast (as a single use):* 25 feet.
   b. *Multi-family (as a single use):* 28 feet.
   c. *Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with less than one lodge unit per 500 square feet of Gross Lot Area:* 28 feet.
   d. *Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with one (1) or more lodge units per 500 square feet of Gross Lot Area:* 36 feet, which may be increased to 40 feet through Commercial Design Review. See Chapter 26.412. Also see Subsection 26.710.190.E.
   e. *Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with one or more lodge units per 500 square feet of Gross Lot Area and an average lodge unit size of 450 square feet or less:* 38 feet, which may be increased to 40 feet through commercial design review. See Chapter 26.412. Also see Subsection E below.


11. Floor area ratio (FAR):

a. The following FAR schedule applies to commercial, lodge, timeshare lodge, exempt timesharing and mixed-use projects with one (1) or more lodge units per five hundred (500) square feet of Gross Lot Area. This FAR schedule is cumulative, up to a total maximum FAR of 2.75:1 for parcels of twenty-seven thousand (27,000) square feet or less in size and 2.5:1 for parcels greater than twenty-seven thousand (27,000) square feet. Also see Subsection 26.710.190.E. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

1) General retail and specialty retail uses; restaurant, bar and entertainment uses; service uses; arts, assembly, cultural, civic and community uses; public uses; academic uses; child care centers: 0.25:1, which may be increased to 0.5:1 by special review, pursuant to Section 26.430.

2) Lodge units, timeshare lodge units, exempt timesharing units: 2:1.


4) Affordable multi-family housing: 0.25:1, which may be increased by special review, pursuant to Chapter 26.430.

5) Free-market multi-family housing: The allowable floor area shall be based on a percentage of the total net livable area of lodging units and affordable housing units on the parcel and according to average lodge unit size on the parcel, as defined in Table 26.710.109.1, below:

<table>
<thead>
<tr>
<th>Average net livable area of individual lodge units on the parcel</th>
<th>Free-market residential FAR as a percentage of total lodge unit and affordable housing net livable area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 600 square feet</td>
<td>5%</td>
</tr>
<tr>
<td>600 square feet</td>
<td>15%</td>
</tr>
<tr>
<td>500 square feet</td>
<td>40%</td>
</tr>
<tr>
<td>400 square feet</td>
<td>50%</td>
</tr>
<tr>
<td>300 square feet or less</td>
<td>60%</td>
</tr>
</tbody>
</table>
When the average lodge unit size falls between the square footage categories, the allowable free-market multi-family or large lodge/timeshare unit floor area shall be determined by interpreting the above schedule proportionately. For example, a lodge project with an average unit size of 450 square feet shall be allowed to develop a free-market residential floor area up to 45% of the total lodge unit net livable area.

This percentage of free-market residential FAR may not be otherwise established for a project through a planned development review.

All non-unit space attributable to free-market residential or large lodge/timeshare units shall count towards the individual FAR allowance for free-market residential or large lodge/timeshare units.

b. The following FAR schedule applies to commercial, lodge, timeshare lodge, exempt timesharing and mixed-use projects, with less than one lodge unit per 500 square feet of Gross Lot Area. This FAR schedule is cumulative, up to a total maximum FAR of 1.5:1 for parcels of twenty-seven thousand 27,000 square feet or less in size and 1:1 for parcels greater than 27,000 square feet. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded.

1) Commercial uses; arts, cultural and civic uses; public uses; academic uses; child care center: .25:1, which may be increased to .5:1 by special review, pursuant to Section 26.430.
2) Lodge units, Timeshare Lodge units, Exempt Timesharing units: 1:1.
4) Affordable multi-family housing: .25:1, which may be increased by special review, pursuant to Section 26.430.030.a
5) Free-market multi-family housing: .25:1. All non-unit floor area attributable to free-market multi-family housing shall count towards the individual FAR allowance for free-market multi-family housing.

c. The following FAR schedule applies to Free-Market multi-family (as a single use) projects established prior to the adoption of Ordinance No. 9, Series of 2005: 1:1. Receipt of a development order shall constitute the date the use was established.

d. The following FAR schedule applies to Free-Market, multi-family (as a single use) projects established after the adoption of Ordinance 9, Series of 2005: .5:1. Receipt of a development order shall constitute the date the use was established.

e. The following FAR schedule applies to 100% Deed-Restricted Affordable Housing (as a single-use): 1.5:1.

f. The following FAR schedule applies to bed and breakfast as a single use of the parcel: 100% of the allowable floor area of a single-family residence on an equivalent-sized lot located in the R-6 Zone District. (See R-6 Zone District.)

12. Maximum Multi-Family Residential Dwelling Unit Size (square feet): 1,500 square feet of net livable area.
a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the FAR of the lot.

Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates

E. Special review for density standard. The Planning and Zoning Commission may approve an adjustment of the "density standard," and the project shall remain qualified for the height, floor area, and growth management incentives associated with this standard. The review shall be pursuant to the review procedures for special review, Chapter 26.430, and the following criteria:

1. The density standard may be amended by a maximum of 10% to one lodge unit per 550 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

F. Compliance with City of Aspen Charter. Any property located east of the Castle Creek River that was in the Lodge (L) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

26.710.200 Commercial Lodge (CL).

A. Purpose. The purpose of the Commercial Lodge (CL) Zone District is to provide for the establishment of mixed-use commercial and lodge development by permitting commercial uses on the ground floor with lodging development above. The City encourages high-occupancy lodging development in this zone district through hotel, lodge and timeshare uses and Short-term Rentals.

B. Permitted uses. The following uses are permitted as of right in the Commercial Lodge (CL) Zone District:

1. Uses allowed in basement and ground floors: Lodge uses, conference facilities, restaurant, bar and entertainment uses, office uses, service uses, arts, assembly, cultural, civic and community uses, recreational uses, academic uses, and child care center. Uses and facilities necessary and incidental to uses on Upper Floors. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

2. Uses allowed on upper floors: Lodge uses, exempt timesharing, offices and activities accessory to timeshare unit sales (see Chapter 26.590), accessory uses, storage accessory to a permitted use, affordable multi-family housing, free-market multi-family housing, Short-term Rentals. (Food service for on-site lodge guests is an accessory use.)

C. Conditional uses. The following uses are permitted as conditional uses in the Commercial Lodge (CL) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. The following uses may be located only on upper floors: general retail and specialty retail uses, restaurant, bar and entertainment uses, service uses, office uses, arts, assembly, cultural, civic, and community uses, public uses, academic uses or child care centers.

2. Commercial parking facility, pursuant to Chapter 26.515.

3. Formula uses.

4. Lodge, Boutique.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial Lodge (CL) Zone District:

1. Minimum Gross Lot Area (square feet): No requirement.

2. Minimum Net Lot Area per dwelling unit (square feet): No requirement.


7. **Minimum utility/trash/recycle area:** pursuant to Section 26.575.060.

8. **Maximum height:** 28 feet for two-story elements of a building. 36 feet for three-story elements of a building, which may be increased to 40 feet through Commercial Design Review. See Chapter 26.412. For projects with an average lodge unit size of four hundred fifty (450) square feet or less, three-story elements of a building may be 38 feet, which may be increased to 40 feet through commercial design review.

9. **Minimum distance between buildings on the lot (feet):** No requirement.

10. **Public amenity space:** Pursuant to Section 26.575.030.

11. **Floor area ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.5:1. Unless otherwise stated below, non-unit space associated with individual uses shall be attributable to the individual FAR allowance. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

   a. **Commercial uses; arts, assembly, cultural, civic and community uses; public uses; academic uses; child care centers; commercial parking facility:** 1:1.

   b. **Lodging units, timeshare lodging units and exempt timesharing units:** 2:1.

   c. **Affordable multi-family housing:** .25:1, which may be increased by special review, pursuant to Section 26.430.d

   d. **Free-market multi-family housing:** .25:1. All non-unit space attributable to Free-Market Multi-Family Housing shall count towards the individual FAR allowance for Free-Market Multi-Family Housing.

12. **Maximum Residential Unit Size (square feet):** 1,500 square feet of net livable area.

   a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

   1) The transfer ratio is five hundred (500) square feet of net livable area for each certificate that is extinguished.

   2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

   3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the FAR of the lot.
Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates

E. **Special review for density standard.** The Planning and Zoning Commission may approve an adjustment of the "density standard," and the project shall remain qualified for the growth management incentives associated with this standard. The review shall be pursuant to the review procedures for special review, Chapter 26.430, and the following criteria:

1. The density standard may be amended by a maximum of 10% to one lodge unit per 550 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

F. **Compliance with City of Aspen Charter.** Any property located east of the Castle Creek River that was in the Lodge (L) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.220 Conservation (C).

A. Purpose. The purpose of the Conservation (C) Zone District is to provide areas of low density development to enhance public recreation, conserve natural resources, encourage the production of crops and animals and to contain urban development.

B. Permitted uses. The following uses are permitted as of right in the Conservation (C) Zone District:

1. Detached residential dwelling.
2. Park, playfield, playground and golf course.
5. Crop production orchards, nurseries, flower production and forest land.
6. Pasture and grazing land.
7. Dairy.
8. Fishery.
10. Husbandry services (not including commercial feedlots) and other farm and agricultural uses.
11. Railroad right-of-way, but not a railroad yard.
12. Home occupations.
13. Accessory buildings and uses.
14. Accessory dwelling units meeting the provisions of Section 26.520.040.
15. Temporary special events associated with ski areas including, but not limited to, such events as ski races, bicycle races and concerts; with Special Event Committee approval.

C. Conditional uses. The following uses are permitted as conditional uses in the Conservation (C) District, subject to the standards and procedures established in Chapter 26.425.

1. Guest ranches.
2. Recreational uses including a riding academy, stable, club, country club and golf course.
3. Ski lift and other ski facilities.
4. Sewage disposal area.
5. Water treatment plant and storage reservoir.

6. Electric substations and gas regulator stations (not including business or administration offices).

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Conservation (C) Zone District.

2. Minimum Net Lot Area per dwelling unit (acres): 10
3. Minimum lot width (feet): 400.
9. Percent of open space required for building site: No requirement.
10. External floor area ratio: (applies to conforming and nonconforming lots of record): same as R-15 Zone District.

A. Purpose. The purpose of the Academic (A) Zone District is to establish lands for education and cultural activities with attendant research, housing and administrative facilities. All development in the Academic Zone District shall be in compliance with a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

B. Permitted uses. The following uses are permitted as of right in the Academic (A) Zone District:

1. Private school or university, teaching hospital, research facility or testing laboratory, provided that such facilities are enclosed and there are no adverse noise or environmental effects.
2. Auditorium and other facilities for performances and lectures.
3. Gallery;
4. Museum;
5. Library;
6. Administrative offices.

C. Conditional uses. The following uses are permitted as conditional uses in the Academic (A) Zone District, subject to the standards and procedures established in Chapter 26.425.

1. Boardinghouse and dormitory for housing students and faculty of schools and other academic institutions;
2. Student health care facility; and
3. Student and faculty dining hall.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Academic (A) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No.36-2013, §18)
26.710.240 Park (P).
A. Purpose. The purpose of the Park (P) Zone District is to ensure that land intended for recreation use is developed so as to serve its intended use, while not exerting a disruptive influence on surrounding land uses.

1. When a Park (P) Zone District is designated with a Transportation Overlay (T) Zone District designation, its purpose is to provide for the use of both parks and public transportation facilities in the most compatible manner practicable, but with the park character remaining dominant.

2. When a Park (P) Zone District is designated with a Drainage Overlay (D) Zone District designation, its purpose is to provide for the use of both park and drainage system facilities in the most compatible manner practicable, with the park character remaining dominant.

3. When the Park (P) Zone District is designated both with the Transportation Overlay (T) Zone District and the Drainage Overlay (D) Zone District, its purpose is to provide for the use of parks, public transportation facilities and drainage system facilities in the most compatible manner practicable, with the park character remaining dominant.

4. When the Park (P) Zone District is designated Golf Course Support (GCS) Overlay Zone District, its purpose is to provide for the use of public golf courses and adjacent support facilities in the most compatible manner practicable, with the park character remaining dominant.

B. Permitted uses. The following uses are permitted as of right in the Park (P) Zone District:

1. Open-use recreational facility, park, playfield, playground, swimming pool, golf course, riding stable, nursery, botanical garden; and

2. Accessory buildings and uses.

C. Conditional uses. The following uses are permitted as conditional uses in the Park (P) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Recreation building.

2. Sport shop.

3. Restaurant facility.

4. Park maintenance building.

5. Farmers' market, as defined in Section 26.04.100, provided:

   a. It operates no more than two (2) days per week, unless modified by the Commission under the conditional use review;
b. It opens to the public no earlier than 7 a.m. and closes no later than 2 p.m., unless modified by the Commission under the conditional use review; and

c. It shall be limited to those weeks that fall between the first Saturday in June and the weekend following the Thanksgiving holiday, inclusive, unless modified by the Commission under the conditional use review.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Park (P) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No. 36-2013, § 19)
26.710.250 Public (PUB).

A. Purpose. The purpose of the Public (PUB) Zone District is to provide for the development of governmental, quasi-governmental and nonprofit facilities for cultural, educational, civic and other nonprofit purposes.

B. Permitted uses. The following uses are permitted as of right in the Public (PUB) Zone District:

1. Library;
2. Museum;
3. Post office;
4. Hospital;
5. Essential governmental and public utility uses, facilities, services and buildings (excluding maintenance shops);
6. Public transportation stop;
7. Terminal building and transportation-related facilities;
8. Public surface and underground parking areas;
9. Fire station;
10. Public and private school;
11. Public park;
12. Arts, cultural and recreational activities, buildings and uses;
13. Accessory buildings and uses;
14. Public and private nonprofit uses providing a community service; and
15. Child care center.

C. Conditional uses. The following uses are permitted as conditional uses in the Public (PUB) Zone District, subject to the standards and procedures established in Chapter 26.425.

1. Maintenance shop.
2. Affordable housing.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Public (PUB) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No. 42-2000, § 2; Ord. No. 36-2013, §20)
26.710.260 Open Space (OS).
A. Purpose. The purpose of the Open Space (OS) Zone district is to preserve, protect and enhance lesser developed or undeveloped areas within the City containing unique naturally occurring or manmade landscape features which provide visual relief and enjoyment while reflecting or presenting community artistic or architectural statements. Development in the Open Space (OS) Zone District should emphasize and be consistent with the natural dynamic state of the land and minimize disruption of existing natural conditions.

B. Permitted uses. The following uses are permitted as of right in the Open Space (OS) Zone District:

1. Paved and unpaved walkways.
2. Benches.
4. Water features such as ponds, streams or fountains.
5. Architectural lighting and downcast low-illumination lighting for walkways and trails.
6. Sculptured or manicured landscape features.
7. Fencing.

C. Conditional uses. None.

A. Purpose. The purpose of the Wildlife Preservation (WP) Zone District is to secure and protect undeveloped or less developed areas within the City from traditional development activities so as to provide for the nurturing and preservation of naturally occurring vegetation, topography, wildlife and wildlife habitat while permitting controlled and limited human use and activities.

B. Permitted uses. The following uses are permitted as of right in the Wildlife Preservation (WP) Zone District:

1. Unpaved walkways and trails.
2. Benches.
3. Pedestrian bridges.

C. Conditional uses. The following uses are permitted as conditional uses in the Wildlife Preservation (WP) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Paved walkways and trails.
2. Fencing.
26.710.280 Transportation Overlay (T) Zone District.
A. Purpose. The purpose of the Transportation Overlay (T) Zone District is to provide for the uses necessary to accommodate the public transportation needs of the City, including the bus system, public parking and similar uses.

B. Permitted uses. The following uses are permitted as of right in the Transportation Overlay (T) Zone District:

1. Public transportation facilities, including bus stops and other transit stops.
2. Terminal buildings.
3. Transportation information and other service related facilities.
4. Public underground parking structures.
5. The permitted uses of the underlying Zone District.

C. Conditional uses. There are no uses permitted as conditional uses in the Transportation Overlay (T) District, except the conditional uses of the underlying Zone District.

D. Dimensional requirements. The dimensional requirements for all uses in the Transportation Overlay (T) Zone District, shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.290  Drainage Overlay (D) Zone District.

A.  Purpose. The purpose of the Drainage Overlay (D) Zone District is to provide for the uses necessary to accommodate the water draining from Aspen Mountain, as well as to retain the drainage discharging from the City's drainage system.

B.  Permitted uses. The following uses are permitted as of right in the Drainage Overlay (D) Zone District:

1.  All uses required by the City Runoff Management Plan, including conduits, swales, retention ponds and appurtenances.

2.  The permitted uses of the underlying Zone District.

C.  Conditional uses. There are no uses permitted as conditional uses in the Drainage Overlay (D) Zone District, except the conditional uses allowed in the underlying Zone District.

D.  Dimensional requirements. The dimensional requirements for all uses in the Drainage Overlay (D) Zone District shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.300   Golf Course Support Overlay (GCS) Zone District.

A.   **Purpose.** The purpose of the Golf Course Support Overlay (GCS) Zone district is to provide for the uses necessary to support the City Golf Course and to permit such other uses as may be required for the facility on a year round basis.

B.   **Permitted uses.** The following uses are permitted as of right in the Golf Course Support Overlay (GCS) Zone District:

1. Lodge;
2. Conference facilities;
3. Restaurant and bar;
4. Sport shop;
5. Golf and maintenance facilities;
6. Active recreational facilities such as tennis courts and swimming pools;
7. Housing for lodge employees;
8. Parking lot; and
9. The permitted uses of the underlying Zone District.

C.   **Conditional uses.** There are no uses permitted as conditional uses in the Golf Course Support Overlay (GCS) Zone District, except the conditional uses of the underlying Zone District.

D.   **Dimensional requirements.** The dimensional requirements for all uses in the Golf Course Support Overlay (GCS) Zone District shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.310 Lodge Overlay (LO) Zone District.

A. Purpose. The purpose of the Lodge Overlay (LO) Zone District is to provide for lodge uses and Short-term Rentals in areas of the City suitable for lodge accommodations but which lie in predominantly residential neighborhoods or where there are limitations on development that necessitate the permitted density to be significantly less than that in the City's other lodge Zone Districts.

B. Permitted uses. The following uses are permitted as of right in the Lodge Overlay (LO) Zone District:

1. The uses permitted in the underlying zone district.
2. Hotel or lodge.
3. Timeshare lodge.
4. Exempt timesharing.
5. Bed and breakfast.
6. Offices and activities accessory to timeshare unit sales (see Chapter 26.590).
7. Conference facilities.
8. Uses associated with outdoor recreation facilities and events.
9. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
10. Storage accessory to a permitted use.
11. Deed-Restricted Affordable Housing accessory to a lodging or timeshare operation and for employees of the operation.
12. Affordable multi-family housing (as a single use)

C. Conditional uses. The following uses are permitted as conditional uses in the Lodge Overlay (LO) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. The uses allowed as conditional uses in the underlying zone district.
2. Restaurant.
3. Lodge, Boutique.

D. Dimensional requirements. The dimensional requirements for all uses in the Lodge Overlay (LO) Zone District shall be the dimensional requirements established for those uses.
in the underlying zone district. Where no specific dimensions have been established for the use, the permitted dimensions shall be limited to that of a single-family residence or multi-family residences where such uses are permitted in the underlying zone district. Upon consideration of the neighborhood compatibility and the dimensional requirements of surrounding zone districts, the dimensional requirements may be established pursuant to Chapter 26.445 - Planned Development.

As part of the PD review, an adjustment of the "density standard" may be approved, and the project shall remain qualified for the growth management incentives associated with this standard. The review shall consider the following criteria:

1. The density standard may be amended by a maximum of 20% to one lodge unit per 600 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

The amount of associated free-market residential floor area to be included in a lodging project shall be as defined in the Lodge (L) Zone District, Subparagraph 26.710.190.D.11.a.5.

E. **Compliance with City of Aspen Charter.** Any property located east of the Castle Creek River that was in the Lodge Overlay (LO) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.320 Lodge Preservation Overlay (LP) Zone District.

A. Purpose. The purpose of the Lodge Preservation (LP) Overlay Zone District is to provide for and protect small lodge uses on properties historically used for lodge accommodations, to permit redevelopment of these properties to accommodate lodge and affordable housing uses, to provide uses accessory and normally associated with lodge and affordable housing development, to permit Short-term Rentals of residential units, to encourage development which is compatible with the neighborhood and respective of the manner in which the property has historically operated and to provide an incentive for upgrading existing lodges on site or onto adjacent properties.

B. Permitted uses. The following uses are permitted as of right in the Lodge Preservation (LP) Overlay Zone District:

   1. The uses permitted in the underlying zone district.
   2. Hotel or lodge.
   3. Timeshare lodge.
   4. Exempt timesharing.
   5. Bed and breakfast.
   6. Dormitory.
   7. Offices and activities accessory to timeshare unit sales (see Chapter 26.590).
   8. Conference facilities.
   9. Uses associated with outdoor recreation facilities and events.
   10. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
   11. Storage accessory to a permitted use.
   12. Affordable housing accessory to a lodging or timeshare operation and for employees of the operation.
   13. Affordable multi-family housing (as a single use)

C. Conditional uses. The following uses are permitted in the Lodge Preservation (LP) Overlay Zone District, subject to the standards and procedures established in Chapter 26.425 of this Code:

   1. The uses allowed as conditional uses in the underlying zone district.
   2. Restaurant.
3. Lodge, Boutique.

**D. Dimensional requirements.** The dimensional requirements for all uses in the Lodge Preservation (LP) Overlay Zone District shall be the dimensional requirements established for those uses in the underlying zone district. Where no specific dimensions have been established for the use, the permitted dimensions shall be limited to that of a single-family residence or multi-family residences where such uses are permitted in the underlying zone district. Upon consideration of the neighborhood compatibility and the dimensional requirements of surrounding zone districts, the dimensional requirements may be established pursuant to Chapter 26.445 - Planned Development.

As part of the PD review, an adjustment of the "density standard" may be approved, and the project shall remain qualified for the growth management incentives associated with this standard. The review shall consider the following criteria:

1. The density standard may be amended by a maximum of 20% to one lodge unit per 600 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

The amount of associated free-market residential floor area to be included in a lodging project shall be as defined in the Lodge (L) Zone District - Section 26.710.190.D.11.a.5.

**E. Compliance with City of Aspen Charter.** Any property located east of the Castle Creek River that was in the Lodge Preservation Overlay (LP) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.330 Ski Area Base (SKI).
A. Purpose. The purpose of the Ski Area Base (SKI) Zone District is to provide for areas which allow for a mixture of uses related to ski area uses and operations including, skiing and appurtenant uses and structures, ski area administrative offices, recreation, lodge/hotel, retail, restaurant and bar uses, tourist-oriented service uses, residential uses, and Short-term Rentals. It is intended that this Zone District will apply to areas located at the base of ski areas and all development within this district will be master planned through a planned development (PD) process.

B. Permitted uses. The following uses are permitted as of right in the Ski Area Base (SKI) Zone District:

1. Alpine and Nordic ski areas, related uses and support facilities typically associated with the uses and operations of ski areas.
2. Lodge units.
3. Hotel.
5. Detached residential or duplex dwellings.
6. Dining rooms, customary accessory commercial uses, laundry and recreational facilities located on the same site of and for guests of lodge units, hotels and dwelling units.
7. Accessory residential dwellings restricted to Affordable Housing Guidelines and Section 26.520.040.
8. Ski area administrative offices.
9. Restaurants and bars.
10. Special events associated with ski areas including such events as ski races, bicycle races and concerts; with special event committee review.
11. Parks, outdoor recreational uses and trails.
12. Recreational facility.
13. Retail establishments.
15. Terminal building and transportation related facilities.
16. Medical clinic accessory to the ski area.
17. Fire, police and emergency services facilities.
18. Accessory buildings and uses.
19. Outdoor vendor carts or areas for food and beverages sales and preparation.

20. Timeshare lodge.


22. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Ski Area Base (SKI) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Daycare center.

2. Offices, business.

3. Public and private surface and underground parking areas.

4. Essential governmental and public utility uses, facilities, services and buildings (excluding maintenance shops).

5. Post office substation.

D. **Dimensional requirements.** The dimensional requirements which shall apply to all permitted and conditional uses in the Ski Area Base (SKI) Zone District shall be set by the adoption of a final development plan, pursuant to Chapter 26.445, of planned development.

E. **Signs.** Signs within the Ski Area Base (SKI) Zone District shall be subject to the provisions of Chapter 26.510, Signs. A sign master plan may be approved in conjunction with a PD review process allowing for the establishment of dimensional and quantity sign standards for the PD.

(Ord. No. 35-2000, §1; Ord. No. 21-2002 §§5, 6 [part]; Ord. No.34-2011, §21)

A. Purpose. The purpose of the Essential Business Overlay (EBO) Zone District is to encourage businesses that accommodate the basic consumer needs of Aspen residents and visitors. The EBO provides alternative use standards from the underlying zoning to allow redevelopment to create spaces useful to locally serving, non-traditional or other uses not anticipated in the zoning code. The EBO also provides opportunities for public-private partnerships, where agencies and developers partner to create useful, non-traditional spaces, including live-work, business incubators and other mixed-use development models. This zone is a voluntary overlay that may be applied to properties in the S/C/I and NC zones to enable quality redevelopment and achieve desired use and design outcomes. The EBO is applied through the rezoning process. Approval is contingent upon meeting the criteria in Section 26.310.

B. Permitted and conditional uses.

1. Permitted Uses: Those allowed in the underlying zone district. In addition, General Retail uses, Service/Commercial/Industrial uses, Service uses, and farmer’s markets are permitted uses.

2. Conditional Uses: Those allowed as conditional uses in the underlying zone district, as well as restaurant, bar, and entertainment uses for the SCI zone district.

3. Residential uses are not permitted in the EBO Zone, unless the uses are accessory to a commercial use on the property or part of a live-work arrangement where the predominant uses on the site are commercial, and the uses are approved as a condition of rezoning (see subsection C.2 below). The EBO zone may not be applied to an existing residential use, unless the applicant for rezoning enters into a binding commitment to demolish or redevelop the residential uses for a use permitted in the EBO Zone, or the residential use is approved as part of the rezoning.

C. Dimensional requirements. The dimensional requirements for all uses in the Essential Business Overlay (EBO) Zone District shall be the dimensional requirements established for those uses in the underlying zone district, except as provided below.

1. The following dimensional standards apply:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Gross Lot Area (square feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum Net Lot Area per dwelling unit (square feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum lot width (feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum front yard setback (feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum side yard setback (feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum rear yard setback (feet)</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum Utility/Trash/Recycle area</td>
<td>Pursuant to Chapter 12.06.</td>
</tr>
<tr>
<td>Maximum height</td>
<td>Limited to underlying zoning.</td>
</tr>
<tr>
<td>Minimum distance between buildings on the lot (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Pedestrian Amenity Space</td>
<td>Pursuant to Section 26.412.</td>
</tr>
<tr>
<td>Floor Area Ratio (FAR)</td>
<td>Limited to underlying zoning.</td>
</tr>
<tr>
<td>Minimum Commercial FAR</td>
<td>1:1</td>
</tr>
</tbody>
</table>
2. The applicant may apply for alternative dimensional requirements as a condition of rezoning, taking into consideration neighborhood compatibility and the dimensional requirements of surrounding zone districts. Under no circumstances shall the overall FAR allowed in the underlying zone district be exceeded. In addition, no reductions in required mitigation may be requested through the EBO rezoning.

D. Transportation and Parking Management. See Chapter 26.515, except that the maximum spaces allowed (Section 26.515.040.E, Table 26.515-1) do not apply to the EBO district.

(Ord. No. 29, 2016, §6)

Section 14:
The Residential Demolition and Redevelopment Standards shall be adopted as follows:

**Residential Demolition and Redevelopment Standards**

**Purpose:** The City of Aspen has various sustainability, affordable housing, and construction policies and goals to address the impacts of construction and development. The *Residential Demolition and Redevelopment Standards* supplement existing policies in the Aspen Municipal Code, stated goals of the City of Aspen City Council, and community goals as stated in the Aspen Area Community Plan to ensure residential construction activity for single family and duplex residential development is meeting regulatory requirements, community expectations, and resulting in high quality design.

**Intent:** The intent of the *Residential Demolition and Redevelopment Standards* is to ensure complex projects with significant community, construction, and environmental impacts are designed in a manner that mitigates those impacts. The standards seek to ensure that projects reduce environmental impacts, energy consumption, and carbon footprint. Single-family and duplex residential structures should be designed in a way that exceeds industry standards in building performance. The design and ongoing operations of these structures should:

- Reduce reliance on sources of energy that rely on fossil fuels,
- Source sustainable materials,
- Implement smart technology to reduce operational energy demands,
- Support the implementation of fully electric heating and cooling systems,
- Reduce the demands of luxury loads (including audio visual systems, lighting, security systems, snowmelt, etc.),
- Offset carbon or energy demands through onsite energy production,
- Reduce water consumption, and
- Divert waste from the landfill by reusing and recycling materials.

Where no specific or applicable rules, regulations or standards appear to be set forth in the *Residential Demolition and Redevelopment Standards*, other rules, regulations, standards, guidelines, and recommended practices, as published by professional associates, technical organizations, model code groups, and similar entities, may be used by the City for guidance.

**Adoption of Residential Demolition and Redevelopment Standards:** Pursuant to the powers and authority conferred by the Charter of the City, the City Council hereby adopts and incorporates by reference redevelopment standards, hereinafter referred to as the *Residential Demolition and Redevelopment Performance Standards*, which are incorporated by reference into the City of Aspen Land Use Code. The
**Residential Demolition and Redevelopment Standards** set forth the design parameters to ensure residential redevelopment improves solid waste diversion, increases the energy efficiency of structures, and reduces negative impacts of construction. The *Residential Demolition and Redevelopment Standards* may be amended, updated, and expanded from time to time by City Council Resolution. The *Residential Demolition and Redevelopment Standards* shall be available for public inspection on the Community Development Department’s web page. Projects that are pursuing a Demolition Allotment as described in Section 26.470.090.C will be reviewed according to these standards.

(Ord. 13, Series of 2022).

**Applicability:** These *Residential Demolition and Redevelopment Standards* shall be used to evaluate projects that trigger Demolition as defined by Section 26.104.100 and Section 26.580 of the Land Use Code. These *Residential Demolition and Redevelopment Standards* shall be the basis for determining a project’s compliance with the review criteria for projects requesting a Demolition allotment pursuant to Land Use Code Section 26.470.090.C. A project must meet the *Residential Demolition and Redevelopment Standards* in effect at the time the land use application is deemed complete.

**Review Authority:** The Community Development and Engineering Departments, or designee, is authorized to enforce the rules and regulations contained in the *Residential Demolition and Redevelopment Standards* in order to carry out the intent of the standards and requirements of the Municipal Code.

**Exemptions:** The Community Development Director may exempt the following development activities from a portion or all of the requirements below:

1. The property is a Historically Designated landmark and compliance with some, or all, of the requirement of these standard is not practical. If this is the case, at the discretion of the Community Development Director, with a recommendation from the Historic Preservation Officer, some or all requirements may be exempted from a project. The applicant must provide a report and summary of what requirements cannot be met, identify the specific constraint, and alternative design elements that are proposed to offset the lack of compliance. Alternatives could include improved thermal envelopes, energy efficient equipment, additional renewable energy offsets, etc.

2. Projects where 100% of the units are currently, or proposed to be, deed restricted with the Aspen Pitkin County Housing Authority.

3. When a project proposes to demolish and revegetate a site, with no new development proposed, the demolition of the structure is subject to waste diversion requirements, but any requirements applicable to the new structure may be waived. An approved demolition and revegetation permit is required. Upon redevelopment of the site with a new structure, the new structure will be subject to the requirements of Section 26.580 and Section 26.470.090.C, as amended and subject to vesting requirements of the code. All timing and code requirements will be memorialized as a condition of approval.

**Requirements:** Projects that trigger Demolition and are seeking a Demolition allotment pursuant to Section 26.470.090.C must satisfy the following required Performance Elements prior to building permit issuance and will be included as a condition of approval:

1. **Waste Diversion:** All projects are required to source separate non-hazardous waste materials and divert a minimum of 35%, by weight, from the landfill. Materials may be salvaged or recycled to meet the waste diversion requirements. This will be included as a condition of approval to be met prior to building permit issuance and prior to final inspection, and shall be documented in the Construction Management Plan.
A. Recyclable/diverted materials may include:
   i. Asphalt,
   ii. Clean concrete,
   iii. Metals,
   iv. Wood,
   v. Single stream recyclables,
   vi. Gypsum board, and/or
   vii. Carpet.
A final determination of actual recyclable materials will be based on the local recycling facility capability.

B. A construction waste management plan may include salvage for resale, salvage and reuse (on or off site), recycling, and/or disposal.

C. The project must track all waste materials by type through the Green Halo System. All waste must be quantified by weight or volume, but the same units of measure must be used through the project.

D. All waste generated by the project that is to be included as diverted waste to meet the minimum diversion requirements shall be recycled at the Pitkin County Landfill, or another approved recycling facility as approved by the Construction Mitigation Officer.

E. A Waste Management Plan shall be included as part of the Construction Management Plan to be approved prior to building permit issuance.
   i. Waste reduction calculations, including anticipated rates for salvage, recycling, and disposal as a percentage of total waste generated by the work, using the Green Halo system. The waste management plan must indicate anticipated types and quantities of demolition and construction waste generated by the work, including estimated quantities and assumptions.
   ii. Plan implementation: The project must maintain logs of each load including:
      1. Type of load,
      2. Load weight,
      3. Name of hauling service,
      4. Landfill or recycling center, and
      5. Date accepted by the recycling center or landfill.
   iii. A final waste diversion report shall be submitted as part of the Final Inspections for the project prior to issuance of a Certificate of Occupancy.
      1. The final waste diversion report shall include recycling and processing facility records that indicate acceptance of recyclable waste by recycling and processing facilities, and other records including sales and donations as applicable and required to substantiate conformance with waste diversion requirements.

2. **Embodied Carbon**: *Environmental Product Declaration (EPD) Disclosure*. Product-specific Type III EPDs shall be submitted for 50% of steel and concrete. EPDs used for compliance with this section shall be certified as complying with the goal and scope for the cradle-to-gate requirements in accordance with ISO Standards 14025 and 21930 and be available in a publicly accessible database.
3. **Energy Reporting:** All projects that trigger Demolition are subject to Section 8.60 – Building IQ of the Aspen Municipal Code and shall follow the requirements for a “Non-City Covered Property.” The Single-Family and Duplex structures subject to these Redevelopment Requirements shall comply with the requirements of the Multi-Family Residential structures over 15,000 square feet. This will be included as a condition of approval. This requirement shall supersede the applicability statements in Section 8.60.030 and the exceptions listed in Section 8.60.020.M, as amended.

4. **Building Energy Performance:** Projects shall comply with the requirements of the Supplemental Building Code requirements attached as Appendix A to the *Residential Demolition and Redevelopment Standards*.

5. **Engineering:** In addition to compliance with all applicable requirements of the URMP, CMP, and the Engineering Design Standards, the project shall meet the following requirement:

   A. Runoff from 50% of the site impervious area shall be treated in above grade sustainable Best Management Practices (BMPs) such as bioretention areas, pervious pavers, tree canopy, grass buffer or other approved above grade BMPs as outlined in the URMP. 50% of the site’s impervious area is permitted to be treated in subsurface BMPs.

**Alternative Compliance:** A project may request variations from these standards if the Planning and Zoning Commission makes a determination the project meets the review criteria for Special Review (Section 26.430.040.J).

**Amendments:** Any future amendments to the *Residential Demolition and Redevelopment Standards* shall be made by City Council via Resolution.

**Violations and Penalties:** Any person violating any provision of these standards may be punished by a fine, imprisonment or both a fine and imprisonment, as set forth in Section 1.04.080 of the City of Aspen Municipal Code. Each day any violation of this Chapter shall continue shall constitute a separate offense.

Appendix A:

**RESIDENTIAL DEMOLITION ALLOTMENT**

**MIXED FUEL LOW CARBON APPENDIX**

Residential demolition allotment new one- and two-family dwellings shall comply with the 2015 Building Codes as adopted by the City of Aspen with the following amendments. These amendments shall not apply to additions or renovations. This document will be replaced by the 2021 Building Codes when and as adopted by the City of Aspen.

**INTERNATIONAL ENERGY CONSERVATION CODE**

**SECTION C408**
SYSTEM COMMISSIONING

C408.1 General. This section covers the commissioning of the building mechanical systems such as heating, cooling, ventilation, and snowmelt in Section C403 and electrical power and lighting systems in Section C405.

C408.2 Mechanical systems and service water-heating systems commissioning and completion requirements.

Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section.

Construction document notes shall clearly indicate provisions for commissioning and completion requirements in accordance with this section and are permitted to refer to specifications for further requirements. Copies of all documentation shall be given to the owner or owner’s authorized agent and made available to the code official upon request in accordance with Sections C408.2.4 and C408.2.5.

Exceptions: The following systems are exempt:

1. Mechanical systems and service water heater systems in buildings where the total mechanical equipment capacity is less than 480,000 Btu/h (140.7 kW) cooling capacity and 600,000 Btu/h (175.8 kW) combined service water-heating and space-heating capacity.

2. Systems included in Section C403.3 that serve individual dwelling units and sleeping units.

R202 Definitions

APPLIANCE. A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

COMBUSTION EQUIPMENT. Any equipment or appliance used for space heating, service water heating, cooking, clothes drying, or lighting that uses fuel gas or fuel oil.

ELECTRIC VEHICLE (EV). An automotive-type vehicle for on-road use, such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, electric motorcycles, and the like, primarily powered by an electric motor that draws current from a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles having a second source of motive power. Off-road, self propelled electric mobile equipment, such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats and the like, are not considered electric vehicles.

ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE). The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

EQUIPMENT. Piping, ducts, vents, control devices and other components of systems other than appliances that are permanently installed and integrated to provide control of environmental conditions for buildings. This definition shall also include other systems specifically regulated in this code.

EV-READY SPACE. A parking space that is provided with an electrical circuit capable of supporting an installed EVSE.

SOLAR-READY ZONE. A section or sections of the roof or building overhang designated and reserved for the future installation of a solar photovoltaic or solar thermal system.

R401.2 Compliance. New projects shall comply with R401 through R404.

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TABLE R402.1.2

<table>
<thead>
<tr>
<th>CLIMATE ZONE</th>
<th>FENESTRATION U-FACTOR</th>
<th>SKYLIGHT U-FACTOR</th>
<th>GLAZED FENESTRATION SHGC</th>
<th>CEILING R-VALUE</th>
<th>WOOD FRAME WALL R-VALUE</th>
<th>MASS WALL R-VALUE</th>
<th>FLOOR R-VALUE</th>
<th>BASEMENT R-VALUE &amp; DEPTH</th>
<th>SLAB R-VALUE &amp; DEPTH</th>
<th>CRAWL SPACE R-VALUE &amp; DEPTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>0.28 0.22</td>
<td>0.55 0.44</td>
<td>NR</td>
<td>49 60</td>
<td>20 + 5ci or 13 + 10ci</td>
<td>34+12ci or 20 + 20ci</td>
<td>49 24 25ci</td>
<td>38</td>
<td>15ci or 10 or 13 + 5ci</td>
<td>20ci or 5 +</td>
</tr>
</tbody>
</table>

---

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d. R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Climate Zones 1 through 3 for heated slabs. R-10 insulation shall be provided under the full slab area of a heated slab in addition to the required slab edge insulation R-value for slabs, as indicated in the table. Slab edge insulation shall be installed to separate conditioned from unconditioned spaces including adjacent garages, entries, and porches. The slab-edge insulation for heated slabs shall not be required to extend below the slab.

**TABLE R402.1.4**

**EQUIVALENT U-FACTORS.**

<table>
<thead>
<tr>
<th>CLIMATE ZONE</th>
<th>FENESTRATION U-FACTOR</th>
<th>SKYLIGHT U-FACTOR</th>
<th>CEILING U-FACTOR</th>
<th>WOOD FRAME WALL U-FACTOR</th>
<th>MASS WALL U-FACTOR</th>
<th>FLOOR U-FACTOR</th>
<th>BASEMENT WALL U-FACTOR</th>
<th>CRAWL SPACE WALL U-FACTOR</th>
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<td>0.55 0.44</td>
<td>0.026 0.018</td>
<td>0.045 0.026</td>
<td>0.057 0.036</td>
<td>0.028</td>
<td>0.050 0.044</td>
<td>0.055 0.044</td>
</tr>
</tbody>
</table>

d. Ceilings with attics may use an equivalent U-factor of 0.024.

**R402.5 “Total UA Alternative”**

a. If the total building thermal envelope UA (sum of U-factor times assembly area) is less than or equal to the total UA resulting from using the U-factors in Table R402.1.4, as amended, (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with amended Table R402.1.2. The UA calculation shall be done using a method consistent with the ASHRAE Handbook of Fundamentals and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

b. If using REScheck software to show compliance with this alternative path for the 2015 edition of the code, the proposed design must be a minimum of 2% 30% more efficient than the standard reference design in order to accommodate the amended prescriptive Fenestration U-factor.

**R402.3.6 Maximum area.** The vertical fenestration area, not including opaque doors and opaque spandrel panels, shall be not greater than 30 percent of the gross above grade wall area. The skylight area shall be not greater than 3 percent of the gross roof area.

**R402.4.1.2 Testing.** The building or dwelling unit shall be tested for air leakage. The maximum air leakage rate for any building or dwelling unit shall not exceed 1.5 air changes per hour. Testing shall be conducted in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope have been sealed.

**R403.5 Service hot water systems.** Energy conservation measures for service hot water systems shall be in accordance with Sections R403.5.1 and R403.5.4 through R403.5.5.

**R403.5.5 Combustion service hot water heating.** Combustion equipment may not be used for service hot water heating unless the following conditions are met:

1. The service hot water system shall comply with the provisions of C408, and
2. Each piece of equipment shall be provided with the following:
   a. A condensate drain that is no more than 2 inches higher than the base of the installed water heater and allows natural draining without pump assistance shall be installed within 3 feet of the water heater.
   b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for comparable heat pump(s) and, if specified in the design, supplemental electric resistance heat service water heating capacity and recovery, terminating within 3 feet of the water heater with no obstructions. Both ends of the branch circuit(s) shall be labeled with the words "For Future Electric Service Water Heating" and be electrically isolated.
c. The equipment shall be installed in a space sized to fit future equivalent electric heat pump(s) and, if specified in the design, supplemental electric resistance heat water heating equipment or a minimum 3 feet by 3 feet by 7 feet high (per heat pump), whichever is larger.

d. Water heaters shall be installed in a space with a minimum volume of 700 cubic feet or with the equivalent of one 16-inch by 24-inch grill to a heated space and one 8-inch duct of no more than 10 feet in length for cool exhaust air.

R403.6.2 Heat or energy recovery ventilation. Dwelling units shall be provided with a heat recovery (HRV) or energy recovery (ERV) ventilation system. The system shall be balanced to within 10% of the average supply and exhaust rates. Minimum HRV and ERV requirements, measured at the lowest tested net supply airflow, shall be greater than or equal to 65 percent Sensible Recovery Efficiency (SRE), a minimum 1.2 cubic feet per minute per watt determined at a static pressure of not less than 0.2 inch w.c. (49.85 Pa), and shall not use recirculation as a defrost strategy.

R403.9 Snow and ice melt systems Snow- and ice- melting systems shall comply with R403.9.1 through R403.9.3.

R403.9.1 Efficiency. Combustion equipment may not be used for snow and ice melt systems unless the following conditions are met:

1. The snowmelt system shall comply with the provisions of C408, and

2. Each piece of equipment shall be provided with the following:

   a. A condensate drain located within 3 feet, and

   b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for a comparable electric hydronic snowmelt system sized in accordance with NEC 440.4(B) and 440.35, and terminating within 3 feet of the heating equipment with no obstructions. Both ends of the branch circuit shall be labeled “For Future Electric Snowmelting” and be electrically isolated.

R403.9.2 Controls. Systems shall include automatic controls capable of shutting off the system when the pavement temperature of the snowmelted surface is greater than 50°F (10°C) and precipitation is not falling, and an automatic or manual control that will allow shutoff when the outdoor temperature is greater than 40°F (4.8°C).

R403.9.3 Snow Melt Slab Insulation. R-10 insulation shall be installed under the snow melted surface.

R403.9.4 Maximum area. The snow melted area shall not be greater than 2,500 square feet per parcel.

R403.10 Pools and permanent spa energy consumption (Mandatory). The energy consumption of pools and permanent spas shall be in accordance with Sections R403.10.1 through R403.10.3.

R403.10.1 Heaters. The electric power to heaters shall be controlled by an on-off switch that is an integral part of the heater mounted on the exterior of the heater in a location with ready access, or external to and within 3 feet (914 mm) of the heater. Operation of such switch shall not change the setting of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with continuously burning ignition pilots. Combustion equipment may not be used for pool or spa heating unless the following conditions are met:

1. Heaters shall not be equipped with continuously burning ignition pilots,

2. Each piece of combustion equipment shall be provided with the following:

   a. A condensate drain located within 3 feet, and

   b. A dedicated, appropriately phased branch circuit that shall have a minimum amperage requirement for a comparable electric heater, sized in accordance with NEC 440.4(B) and 440.35, terminating within 3 feet of the heating equipment with no obstructions. Both ends of the branch circuit shall be labeled “For Future Electric Pool Heating” and be electrically isolated.

R403.13 Heating outside a building. Systems installed to provide heat outside a building shall be electric radiant systems. Such heating systems shall be controlled by an occupancy sensing device or a timer switch, so that the system is automatically de-energized when occupants are not present.

R403.14 Combustion space heating. Combustion equipment may not be used for primary space heating unless the following conditions are met:

1. The space heating system(s) shall comply with the provisions of C408, and
2. Each piece of equipment shall be provided with the following:
   a. A condensate drain located within 3 feet, and
   b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for
      a comparable electric heat pump and, if specified in the design, electric resistance supplemental heat
      sized in accordance with NEC 440.4(B) and 440.35, and terminating within 3 feet of the heating
      equipment with no obstructions. Both ends of the branch circuit(s) shall be labeled “For Future Electric
      Space Heating” and be electrically isolated.

   **Exception:**
   1. Where an electrical circuit in compliance with NEC 440.4(B) and 440.35 exists for
      space cooling equipment.

**R404.1 Lighting equipment.** Not less than 75 percent of the lamps in permanently installed lighting fixtures shall be high-
   efficacy lamps or not less than 75 percent of the permanently installed lighting fixtures shall contain only high-efficacy lamps.
   All permanently installed lighting fixtures, excluding kitchen appliance lighting fixtures, shall contain only high-efficacy
   lighting sources.

**R404.1.1 Lighting equipment (Mandatory).** Fuel gas lighting systems shall not have continuously burning pilot lights be
   permitted.

**R404.2 Renewable energy infrastructure.** Buildings shall comply with Sections R404.4.1 through R404.4.7.

   **Exceptions:**
   1. A building with a permanently installed on-site renewable energy system.
   2. A building with less than 600 square feet (55 m²) of roof area oriented between 110 degrees and 270 degrees of
      true north.
   3. A building where all areas of the roof that would otherwise meet the requirements for a solar-ready zone are in full
      or partial shade for more than 70 percent of daylight hours annually.

**R404.2.1 Solar-ready zone area.** The total area of the solar-ready zone shall not be less than 300 square feet and shall be
   composed of areas not less than 5.5 feet in width and not less than 80 square feet exclusive of access or set back areas as
   required by the International Fire Code.

**R404.2.2 Obstructions.** Solar-ready zones shall be free from obstructions, including but not limited to vents, chimneys, and
   roof-mounted equipment.

**R404.2.3 Shading.** The solar-ready zone shall be set back from any existing or new permanently affixed object on
   the building or site that is located south, east or west of the solar zone a distance not less than two times the object’s
   height above the nearest point on the roof surface. Such objects include, but are not limited to, taller portions of the
   building itself, parapets, chimneys, antennas, signage, rooftop equipment, trees and roof plantings.

**R404.2.4 Roof load documentation.** The structural design loads for roof dead load and roof live load shall be
   clearly indicated on the construction documents.

**R404.2.5 Electrical service reserved space.** The main electrical service panel shall have a reserved space to allow installation
   of a dual pole circuit breaker for future solar electric installation and shall be labeled “For Future Solar Electric.” The reserved
   space shall be positioned at the opposite (load) end from the input feeder location or main circuit location.

**R404.2.6 Electrical interconnection.** An electrical junction box shall be installed within 24 inches of the main electrical
   service panel and shall be connected to a capped roof penetration sleeve or a location in the attic that is within 3 feet (914 mm)
   of the solar ready zone by one of the following:
   1. Installed conduit with pull string sized to accommodate future renewable energy infrastructure requirements.
   2. Minimum #10 Metal copper 3-wire

   Where the interconnection terminates in the attic, location shall be no less than 12” (35 mm) above ceiling insulation. Both
   ends of the interconnection shall be labeled “For Future Solar Electric.”
**R404.2.7 Construction documentation certificate.** A permanent certificate, indicating the solar-ready zone and other requirements of this section, shall be posted near the electrical distribution panel, water heater or other conspicuous location by the builder or registered design professional.

**R404.3 Electric vehicle charging infrastructure.** Buildings with a dedicated attached or detached garage or with on-site parking spaces shall be provided with one EV-ready space dwelling unit. The branch circuit shall meet the following requirements:

1. A minimum capacity of 9.6 kVA
2. Terminates at a junction box or receptacle located within 3 feet (914 mm) of the parking space and labelled “For electric vehicle charging”, and
3. The electrical panel directory shall designate the branch circuit as “For electric vehicle charging”.

**R404.4 Energy storage infrastructure.** Each building site shall have a dedicated location for the installation of future on-site energy storage in accordance with the following:

1. Dedicated floor area not less than 2 feet in one dimension and 4 feet in another dimension and located in accordance with Section 1207 of the 2021 International Fire Code and Section 110.26 of the NFPA 70.
2. The main electrical service panel shall have a reserved space to allow installation of a two-pole circuit breaker for future electrical energy storage system installation. This space shall be labeled “For Future Electric Storage.” The reserved spaces shall be positioned at the end of the panel that is opposite from the panel supply conductor connection.
3. Installed conduit with pull string sized to accommodate future energy storage electrical requirements.

**Exception:** Where an onsite electrical energy system storage system is installed.

**R404.5 Additional electric ready infrastructure.** Combustion equipment shall be installed in accordance with this section.

**R404.5.1 Combustion clothes drying.** A dedicated 240-volt branch circuit with a minimum capacity of 30 amps shall terminate within 6 feet (1829 mm) of natural gas clothes dryers and shall be accessible with no obstructions. Both ends of the branch circuit shall be labeled with the words “For Future Electric Clothes Drying” and be electrically isolated.

**R404.5.2 Combustion cooking.** A dedicated 240-Volt, 40A branch circuit shall terminate within 6 feet (1829 mm) of natural gas cooking equipment and appliances and be accessible with no obstructions. Both ends of the branch circuit shall be labeled with the words “For Future Electric Range” and be electrically isolated.

**R404.5.3 Other combustion equipment.** Combustion equipment and end-uses not covered by Sections R404.6.2-5 shall be provided with a branch circuit sized for an electric appliance, equipment or end use with an equivalent capacity that terminates within 6 feet (1829 mm) of the appliance or equipment. Both ends of the branch circuit shall be labeled with the words “For Future Electrification” and be electrically isolated.

**INTERNATIONAL FUEL GAS CODE**

**Section 301.2.1 Appliance Controls.** Fuel burning appliances, such as fireplaces and firepits, used for purposes other than space conditioning, water heating, snow melting, and cooking shall be controlled by an occupancy sensing device or a timer switch, so that the appliance shuts off when occupants are not present or within an hour of being turned on.

**Exception:** A manual override switch may be provided that, when initiated, shall permit the controlled appliance to remain on for not more than 2 hours.

**INTERNATIONAL RESIDENTIAL CODE**

**Section R313 Automatic fire sprinkler systems.** (reference Chapter 9 of the Fire Code with the exception of R313.2 as amended herein.)
R313.2 One- and two-family dwellings automatic fire systems. An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13D.

Chapter 8.49
INTERNATIONAL WILDLAND-URBAN INTERFACE CODE
Pursuant to the powers and authority conferred by the laws of the State and the Charter of the City, there is hereby adopted and incorporated herein by reference as if fully set forth those regulations contained in the International Wildland-Urban Interface Code, 2021 Edition, and all errata as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795, except as otherwise provided by amendment or deletion as contained in Section 8.49.020 of this Chapter. At least one (1) copy of the International Wildland-Urban Interface Code shall be available for inspection during regular business hours.

Sec. 8.49.020. Amendments.
The International Wildland-Urban Interface Code, 2021 Edition, as adopted by the City at Section 8.49.010, is hereby amended to provide and read as follows:
(a) Section [A]101.1 Title. These regulations shall be known as the International Wildland-Urban Interface Code of City of Aspen hereinafter referred to as “this code.”
(Delete in entirety with the exception of Section 505 as amended below and associated references.)

SECTION 505
CLASS 2 IGNITION-RESISTANT CONSTRUCTION

503.2 Ignition-resistant building material. Ignition-resistant building materials shall comply with any one of the following:

1. Material shall be tested on all sides with the extended ASTM E84 (UL 723) test or ASTM E2768, except panel products shall be permitted to test only the front and back faces. Panel products shall be tested with a ripped or cut longitudinal gap of \( \frac{1}{8} \) inch (3.2 mm). Materials that, when tested in accordance with the test procedures set forth in ASTM E84 or UL 723 for a test period of 30 minutes, or with ASTM E2768, comply with the following: 1.1. Flame spread. Material shall exhibit a flame spread index not exceeding 25 and shall not show evidence of progressive combustion following the extended 30-minute test.

1.2 Flame front. Material shall exhibit a flame front that does not progress more than 10\( \frac{1}{2} \) feet (3200 mm) beyond the centerline of the burner at any time during the extended 30-minute test.

1.3. Weathering. Ignition-resistant building materials shall maintain their performance in accordance with this section under conditions of use. Materials shall meet the performance requirements for weathering (including exposure to temperature, moisture and ultraviolet radiation) contained in the following standards, as applicable to the materials and the conditions of use:


1.3.2. ASTM D7032 for wood-plastic composite materials.

1.3.3. ASTM D6662 for plastic lumber materials.

1.4 Identification. Materials shall bear identification showing the fire test results.

Exception: Materials composed of a combustible core and a noncombustible exterior covering made from either aluminum at a minimum 0.019 inch (0.48 mm) thickness or corrosion-resistant steel at a minimum 0.0149 inch (0.38 mm) thickness shall not be required to be tested with a ripped or cut longitudinal gap.
2. Noncombustible material. Material that complies with the requirements for noncombustible materials in Section 202.

3. Fire-retardant-treated wood. Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code.

4. Fire-retardant-treated wood roof coverings. Roof assemblies containing fire-retardant-treated wood shingles and shakes that comply with the requirements of Section 1505.6 of the International Building Code and classified as Class A roof assemblies as required in Section 1505.2 of the International Building Code.

505.1 General. Buildings shall be of Class 2 ignition-resistant construction shall be in accordance with Sections 505.2 through 505.11.

505.2 Roof assembly. Roofs shall have a roof assembly that complies with not less than a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved noncombustible roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers, or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

505.2.1 Roof valleys. Where provided, valley flashings shall be not less than 0.019-inch (0.48 mm) (No. 26 galvanized sheet gage) corrosion-resistant metal installed over a minimum 36-inch-wide (914 mm) underlayment consisting of one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 running the full length of the valley.

505.3 Protection of eaves. Combustible eaves, fascias and soffits shall be enclosed with solid materials with a minimum thickness of 3/4 inch (19 mm). Exposed rafter tails shall not be permitted unless constructed of heavy timber materials.

505.4 Gutters and downspouts. Gutters and downspouts shall be constructed of noncombustible material. Gutters shall be provided with an approved means to prevent the accumulation of leaves and debris in the gutter.

505.5 Exterior walls. Exterior walls of buildings or structures shall be constructed with one of the following methods:

1. Materials approved for not less than 1-hour fire-resistance-rated construction on the exterior side.

2. Approved noncombustible materials.

3. Heavy timber or log wall construction.

4. Fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

5. Ignition-resistant materials on the exterior side.

Such material shall extend from the top of the foundation to the underside of the roof sheathing.

505.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section 505.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour fire-resistance-rated construction or heavy timber construction or fire-retardant-treated wood. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

505.7 Appendages and projections. Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall be not less than 1-hour fire-resistance-rated construction, heavy timber construction or constructed of one of the following:

1. Approved noncombustible materials.

2. Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code.

3. Ignition-resistant building materials in accordance with Section 503.2.

Exception: Coated materials shall not be used as the walking surface of decks.
505.7.1 Underfloor areas. Where the attached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5.

505.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire protection rating of not less than 20 minutes.

505.9 Exterior doors. Exterior doors shall be approved non-combustible construction, solid core wood not less than 1 3/4 inches thick (45 mm), or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 505.8.

Exception: Vehicle access doors.

505.10 Vents. Attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.0929 m²) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm) or shall be designed and approved to prevent flame or ember penetration into the structure.

505.10.1 Vent locations. Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located not less than 10 feet (3048 mm) from lot lines. Underfloor ventilation openings shall be located as close to

505.11 Detached accessory structures. Detached accessory structures located less than 50 feet (15 240 mm) from a building containing habitable space shall have exterior walls constructed with materials approved for not less than 1-hour fire-resistance-rated construction, heavy timber, log wall construction, or constructed with approved noncombustible materials or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

505.11.1 Underfloor areas. Where the detached accessory structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5 or underfloor protection in accordance with Section 505.6.

Exception: The enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour fire-resistance-rated construction or heavy-timber construction or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

Section 15:
Any scrivener’s errors contained in the code amendments herein, including but not limited to mislabeled subsections or titles, may be corrected administratively following adoption of the Ordinance.

Section 16:
This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

Section 17:
If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 18:
A public hearing on this ordinance was held on the 28th day of June 2022, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same was published in a newspaper of general circulation within the City of Aspen.
INTRODUCED AND READ, as provided by law, by the City Council of the City of Aspen on the 14th day of June 2022.

ATTEST:

____________________________ ____________________________
Nicole Henning, City Clerk                                           Torre, Mayor

FINALLY, adopted, passed and approved this 28th day of June 2022.

ATTEST:

____________________________ ____________________________
Nicole Henning, City Clerk                                           Torre, Mayor

APPROVED AS TO FORM:

_____________________________
James R. True, City Attorney

FINALLY, adopted, passed and approved this ___ day of __________, 2022.

_______________________________
Torre, Mayor

ATTEST: APPROVED AS TO FORM:

______________________________ ______________________________
Nicole Henning, City Clerk James R. True, City Attorney

WHEREAS, the City of Aspen (the "City") is a legally and regularly created, established, organized, and existing municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado and the Home Rule Charter for the City (the "Charter"); and,

WHEREAS, the zoning and land use powers conferred upon the City by the State of Colorado as a Home Rule Municipality empower the City to manage land use to ensure the public health, safety, and welfare; and,

WHEREAS, the City of Aspen currently regulates land uses within the City limits in accordance with the Aspen Land Use Code (hereinafter "Land Use Code"), Title 26 of the Aspen Municipal Code, adopted pursuant to its Home Rule Constitutional authority and the Local Government Land Use Control Enabling Act of 1974, as amended, §§29-20-101, et seq. C.R.S; and,

WHEREAS, the character of certain development activities in the City of Aspen is having a negative impact upon the health, peace, safety, and general wellbeing of the residents and visitors of Aspen; and,

WHEREAS, recent land use applications seeking Development Orders in various City Zone Districts do not appear to be consistent with the goals and vision as expressed by the 2012 Aspen Area Community Plan, including:

- We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20); and
- 1.1. Achieve sustainable growth practices to ensure long-term vitality and stability of our community and diverse visitor-based economy. (pg 24); and
- V.1. Encourage a commercial mix that is balanced, diverse and vital and meets the needs of year-round residents and visitors. (pg 26); and
- V.2. Facilitate the sustainability of essential businesses that provide basic community needs. (pg 26); and
- V.3. Ensure that the City Land Use Code results in development that reflects our architectural heritage in terms of site coverage, mass, scale, density and a diversity of heights, in order to: 

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o Create certainty in land development.
o Prioritize maintaining our mountain views.
o Protect our small-town community character and historical heritage.
o Limit consumption of energy and building materials.
o Limit the burden on public infrastructure and ongoing public operating costs.
o Reduce short- and long-term job generation impacts, such as traffic congestion and demand for affordable housing. (pg 26);

and,

WHEREAS, the City of Aspen depends on a lived-in community of year-round locals to support community culture, provide labor and capital to support the local economy, ensure public safety and peace through the presence of first responders, health care and essential service workers in the community, and ensure the long-term viability of the community and tourist economy; and,

WHEREAS, due to unprecedented increases in home prices and a lack of supply over time, the residential real estate market in Aspen no longer delivers meaningful housing for local residents, therefore, the affordable housing system is relied upon to provide the vast majority of housing for locals and workers; and,

WHEREAS, the availability of housing for local workers and residents including first responders, health care workers, and other essential service workers is diminishing, the system for delivering affordable housing is not keeping pace with need, and the housing market in the region and state of Colorado are in crisis; and,

WHEREAS, recent evolutions in the residential real estate market and economy, including new financial dynamics, the proliferation of short-term rentals, have rendered elements of the Land Use Code inadequate to respond to local affordable housing needs; and,

WHEREAS, the current regulatory structure to deliver affordable housing to the community is inadequate to meet the needs of current residents and provide affordable housing to meet the future needs, and to ensure the presences of first responders, health care and essential workers, and an adequate labor force to support the economy; and,

WHEREAS, the Aspen Area Community Plan includes policies directing the City of Aspen to address affordable housing in the community, including:

• VIII.1. Restore public confidence in the development process. (pg 27)
• VIII.2. Create certainty in zoning and the land use process. (pg 27)
• VIII.3. Ensure that the Planned Development process results in tangible, long-term community benefits and does not degrade the built or natural environment through mass and scale that exceeds the Land Use Code standards. (pg 27)
• II.1. The housing inventory should bolster our socioeconomic diversity. (pg 41)
• II.2. Affordable housing should be prepared for the growing number of retiring Aspenites. (pg 41)
• IV.2. All affordable housing must be located within the Urban Growth Boundary. (pg 42)
• IV.3. On-site housing mitigation is preferred. (pg 42)
• IV.5. The design of new affordable housing should optimize density while demonstrating compatibility with the massing, scale, and character of the neighborhood; (pg 42); and,

WHEREAS, a functional residential housing sector is essential to sheltering Aspen's populations, supporting a stable economy, maintaining the health, peace and safety of the City of Aspen for its residents and visitors; and,

WHEREAS, the City of Aspen recognizes that anthropogenic climate change and the impacts to the ecological and economic health of the community constitutes an emergency and a threat to the health and safety of the residents of the City of Aspen and the global community; and,

WHEREAS, the City of Aspen is a signatory to the US Mayors' Climate Protection Agreement, the Chicago Climate Exchange, and the Global Covenant of Mayors for Climate and Energy, and

WHEREAS, the City committed to the Race to Zero campaign, requiring the City to publicly endorse the following principles:

- Recognize the global climate emergency.
- Commit to keeping global heating below the 1.5° Celsius goal of the Paris Agreement.
- Commit to putting inclusive climate action at the center of all urban decision-making, to create thriving and equitable communities for everyone.
- Invite our partners – political leaders, CEOs, trade unions, investors, and civil society – to join us in recognizing the global climate emergency and help us deliver on science-based action to overcome it; and,

WHEREAS, the City has adopted an Ecological Bill of Rights establishing ten inalienable ecological rights for all, including:

- The right to ensure the efficient use of energy and of natural resources,
- The right to expect from our governments active and consistent enforcement of land use and development regulations; and,

WHEREAS, the Aspen Area Community Plan includes policies directing the City of Aspen to address climate change and environmental stewardship, including:

I.1. By 2020, reduce the carbon footprint of the Aspen Area from 2004 levels by 30% (to 588,612.5 tons CO2-e). (pg 52)
I.2. All existing development and uses should minimize their greenhouse gas emissions. (pg 52)
I.3. Incentivize alternative forms of transportation to reduce reliance on fossil fuels. (pg 52)
I.4. All new development and uses should minimize their greenhouse gas emissions. (pg 52)
II.3. All existing development and uses should minimize their air pollution emissions. (pg 52)
II.4. All new development and uses should minimize their air pollution emissions. (pg 52)
IV.1. Maximize recycling, implement waste reduction and environmentally responsible purchasing programs, and encourage behavior that moves the Aspen Area toward being a zero-waste community and extends the life of the landfill. (pg 53)
IV.4. Increase the practice of deconstruction and increase the amount of materials that are diverted from the landfill, reused or recycled. (pg 53)

V.4. Require new development and redevelopment to minimize their energy usage and use on-site renewable energies as the site allows. (pg 53)

V.5. Existing development should minimize energy usage and use on-site renewable energies as the site allows; (pg 53); and,

WHEREAS, residential development contributes to climate change through transportation required to construct and service residential properties, the energy and impacts inherent in creating and sourcing the materials necessary for residential development, the natural resource consumption required for the operation of residential structures, and the production of solid waste and associated disposal impacts from the construction and operation of residential structures; and,

WHEREAS, the City's current residential development regulations are not sufficiently aligned with its adopted climate and environmental protection policies and regulations, undermining the community's ability to effectively reduce greenhouse gas emissions and avoid the worst effects of climate change; and,

WHEREAS, a pause in certain types of residential development is necessary in order to ensure that residential development supports the City's adopted climate and environmental policies and does not unnecessarily contribute to further climate and environmental impacts; and,

WHEREAS, the processes and procedures described in the Land Use Code, including but not limited to Chapter 26.300 determine how development is reviewed and permitted in the City; and,

WHEREAS, those processes and procedures are designed to balance the right to the use of private real property in the City with community input and preservation of history and character to ensure the orderly use of land within the City limits; and,

WHEREAS, in certain circumstances, those processes and procedures are not delivering the development outcomes described in the AACP or Land Use Code, warranting a pause to certain residential development applications to align those processes and procedures with adopted community policies; and,

WHEREAS, the community has a Growth Management Quota System (GMQS) designed to manage the pace, type, location, and extent of development. That system was developed prior to recent evolutions in Aspen's development environment including the proliferation of private vacation rentals, current trends in development finance and ownership, and the further build-out of Aspen's zone districts. To provide for the ongoing viability of the GMQS system, it is necessary to assess the applicability and effectiveness of GMQS relative to adopted City policies in the context of the pause on residential development established by this ordinance; and,

WHEREAS, the City Council and the Community Development Department require a period of time in which to review all existing land use codes and regulations as they affect land use development in certain Zone Districts within the City of Aspen to ensure that all land use development proceeds in a manner that is consistent with the Aspen Area Community Plan; and,
WHEREAS, the City Council desires that the staff of the Community Development Department conduct a thorough analysis and assessment of the Land Use Code and regulations affecting the development of land within certain Zone Districts of the City of Aspen, with particular attention to zoning, Growth Management Quota System, affordable housing, solid waste, environmental stewardship, climate action, development review procedures, calculations and measurements, and related regulations to ensure consistency with the Aspen Area Community Plan and Climate Action Plan; and,

WHEREAS, a moratorium through an emergency ordinance on all development applications will enable a reasoned discussion and consideration of desired amendments to the Land Use Code without creating a rush of development applications and the related impacts upon the community; and,

WHEREAS, Ordinance #24, Series of 2021, which proposed changes to the calculation of affordable housing mitigation was tabled by Council and had not been enacted; and,

WHEREAS, in Ordinance #06, Series of 2022, The Aspen City Council by a vote of 5-0 approved a temporary moratorium through June 8, 2022, on the acceptance of any new land use application seeking a development order or notice of approval, and on the acceptance of certain building permit applications for all residential uses in all zone districts within the city; and declaring an emergency; and,

WHEREAS, Policy Resolution #043, Series of 2022, approved by Council on March 22, 2022 during a properly noticed public hearing, provided direction to staff to pursue amendments of the Land Use Code to “support the development of more affordable housing in Aspen” and “Align land use review processes with community development needs, including affordable housing, and the mitigation of the community impacts from free-market development” among other objectives; and,

WHEREAS, in Ordinance #08, Series of 2022, The Aspen City Council, by a vote of 5-0 approved, an extension of the temporary moratorium through August 8, 2022; and,

WHEREAS, in response to Council direction and approval, Community Development staff has engaged a Consultant support team that includes Design Workshop, City Explained, Inc., White and Smith Planning Group, RRC Associates, and Economic and Planning Systems (EPS); and,

WHEREAS, throughout the duration of the moratorium, staff and the consultant team carried out an extensive public engagement effort to inform the public and receive input from stakeholders. A summary of these efforts was presented to Council at a Work Session on May 9, 2022; and,

WHEREAS, in response to Council direction, recommendations from the consultant team, and input from the community, including technical stakeholders, staff has drafted proposed amendments throughout the Land Use Code in support of the Policy Resolution and Council’s desired outcomes of the temporary moratorium as identified in Ordinance #06, Series of 2022; and,

WHEREAS, Community Development staff provided public engagement opportunities, and held discussion with the Planning and Zoning Commission on June 7, 2022 and received recommendations from the Planning and Zoning Commission; and,
WHEREAS, at a regular meeting on June 14, 2022 City Council by an X – X (X-X) vote, approved Ordinance #13, Series of 2022 on First Reading; and,

WHEREAS, at a regular meeting on June 28th, during a properly noticed public hearing, City Council by a X -X (X-X), approved Ordinance #13, Series of 2022 on Second Reading; and,

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

Section 1:
The following definitions in Land Use Code Section 26.104.100. Definitions shall and adopted as follows:

26.104.100. Definitions.
As used in this Code, unless the context otherwise requires, the following terms shall be defined as follows:

100% Deed-Restricted Affordable Housing. Housing Residential projects where all the dwelling units are subject to a recorded deed-restriction with the deed restricted affordable by the Aspen Pitkin County Housing Authority: (APCHA). The units may be Category units, Resident Occupied (RO) units, or some combination thereof.

Affordable Housing. A dwelling unit or units subject to the size, type, rental, sale and occupancy restrictions and guidelines for affordable housing adopted by the City as part of the Affordable Housing Guidelines and Chapter 26.470, Growth Management Quota System.

Deconstruction. The systematic dismantling of a structure in order to maximize the salvage of materials and parts for reuse and recycling. Deconstruction is undertaken as part of the Demolition or Destruction of a building or structure.

Demolition. To raze, disassemble, tear down or destroy forty percent (40%) or more of an existing structure (prior to commencing development) as defined and described in Section 26.580. For the method of determining demolition, see Section 26.580.040, Measurement of demolition. Demolition shall also include the removal of a dwelling unit in a multi-family or mixed-use building, its conversion to nonresidential use, or any action which penetrates demising walls or floors between Multi-Family Housing Units if such action is undertaken to combine the units. (See Section 26.470.070.5.100.D, Demolition or Redevelopment of Multi-Family Housing)

Destruction. To remove, disassemble, tear down or destroy portions of a building or structure where the proposed scope does not exceed 40% Demolition as defined by Section 26.580 - Demolition.

Development. The use or alteration of land or land uses and improvements inclusive of, but not limited to: 1) the creation, division, alteration or elimination of lots; or 2) mining, drilling (excepting to obtain

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soil samples or to conduct tests) or the construction, erection, alteration, Redevelopment, destruction, or Demolition of buildings or structures; or 3) the grading, excavation, clearing of land or the deposit or fill in preparation or anticipation of future development, but excluding landscaping.

Diversion. Any activity, including recycling, source reduction, reuse, deconstruction, or salvaging of materials, which causes materials to be diverted from disposal in landfills and instead puts the material to use as the same or different usable product.

Dwelling, Affordable housing. A dwelling unit or units subject to the size, type, rental, sale and occupancy restrictions and guidelines for affordable housing adopted by the City as part of the Affordable Housing Guidelines and Chapter 26.470, Growth Management Quota System.

Dwelling, Free market. A dwelling unit not subject to the construction, occupancy or other regulations adopted by APCHA, the City, or its housing designee under the City's affordable housing program.

Dwelling, multi-family. A residential structure containing three (3) or more attached or detached Dwelling Units, not including hotels and lodges, but including townhomes, that may include accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. One (1) or more Dwelling Units located within a Mixed-Use building shall also be considered a multi-family dwelling. The term "multi-family dwelling" also includes properties listed on the Aspen Inventory of Historic Landmark Sites and Structures consisting of three (3) or more Residential Dwellings.

Employee housing. The same as Dwelling, Affordable Housing.

Floor area. A general term used to describe the sum total of the gross horizontal areas of each story of the building measured from the exterior walls of the building. Floor Area is distinct from the specific definitions below, but may include Gross Floor Area, Mitigation Floor Area, Allowable Floor Area (see specific definitions of each type below for additional clarity). Also see, Supplementary Regulations — Section 26.575.020, Calculations and Measurements.

Floor Area, Allowable. The total amount of floor area allowed on a property based on the limitations and allowances in the applicable zone district in Title 700 and calculated pursuant to Section 26.575.020.D, Calculations and Measurements.

Floor Area, Gross. Gross floor area is the total horizontal area of all floors in a building, and of all floors in any accessory structure on the same lot, measured from the exterior face framing of the exterior walls (See Section 26.575.020.D), or the centerline of a common wall separating two buildings, but excluding unenclosed balconies. This floor area measurement is the total floor area in which Mitigation Floor area and Allowable floor area exclusions are deducted from as established in Section 26.575.020.D.2.

Floor Area, Mitigation – The Gross Floor Area of a structure minus exclusions included in Section 26.575.020.D. This floor area measurement is used to assess required affordable housing mitigation for a given project.
**Floor Area, Non-unit space.** The area, considering all inclusions and exclusions as calculated herein, within a lodge, hotel or mixed use building that is commonly shared. (Also see Section 26.575.020.D.14 — Calculations and Measurements.)

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**Floor area ratio (FAR).** The total floor area of all structures on a lot divided by the lot area.

**Floor area ratio, external.** The total floor area of all structures compared to the total area of the building site.

**Floor area ratio, internal.** The floor area within a building devoted to a particular use, compared to the total floor area of the building.

**Free-market unit.** A dwelling unit not subject to the construction, occupancy or other regulations adopted by the City of Aspen or its housing designee under the City’s affordable housing program.

**Four-plex.** A multifamily housing project consisting of four, attached or detached units.

**Gross floor area.** For the purposes of calculating non-unit space, gross floor area is the total floor area considering all inclusions and exclusions as calculated herein plus gross area of all subgrade levels measured from interior wall to interior wall.

**Non-unit space.** The floor area, considering all inclusions and exclusions as calculated herein, within a lodge, hotel or mixed use building that is commonly shared. (Also see Section 26.575.020 — Calculations and Measurements.)

**Reconstruction.** To demolish and rebuild an existing structure, or part of a structure in kind: following destruction.

**Redevelopment.** The replacement, rehabilitation, repurposing, remodel, or addition to pre-existing structures or uses on a parcel where the scope of work exceeds the 40% Demolition (as defined by this title). Redevelopment is distinct from Development in that Development may occur without triggering Demolition, where Redevelopment is only applicable when Demolition has been triggered.

**Residential multi-family housing.** A dwelling unit which has in its history ever housed a working resident and which is located in a building in one of the following configurations:

1) A multi-family residential building, including 3 or more attached or detached dwelling units;

2) A mixed-use building; or

3) A detached building on a property listed on the Aspen Inventory of Historic Landmark Sites and Structures containing three (3) or more detached residential units where permitted by the zone district.

Excluded from this definition shall be single-family and duplex dwellings and dwelling units used exclusively as tourist accommodations by or nonworking residents.
Salvage. The controlled removal of items and material from a building, construction, or demolition site for the purpose of on- or off-site reuse, or storage for later reuse. The salvaging of materials is one method of meeting waste diversion requirements.

Source separated recyclable materials. The recyclable materials that are separated from other recyclable materials or solid waste and placed in separate containers according to type or category of materials and directly marketed as a single commodity.

Tri-plex. A multifamily housing project consisting of three, attached or detached units.


Residential use.

Characteristics A dwelling unit used or intended for use exclusively for dwelling purposes, not including hotels or lodges, which is occupied by a single resident, family or household.

Examples Residential uses and configurations include the following categories:
1. detached residential dwellings,
2. attached residential dwellings, duplex dwellings,
3. multi-family dwellings, residential multi-family housing, which refers to any of the following configurations: multi-family dwelling unit(s) located in an exclusively residential building, a multi-family dwelling unit(s) located in a mixed-use building, or detached buildings containing three (3) or more detached residential dwellings where permitted by the zone district, and
4. Home occupation: principally residential buildings that includes a business, occupation or trade conducted principally within the dwelling or accessory structure, allowed only as an accessory use, and occupied on a full time basis by a person who is employed by the commercial use. (See also section 26.575.090, Home Occupations.)

In addition, residential uses are further divided into affordable housing and free market units for purposes of the Growth Management Quota System (Chapter 26.470) and the disposition of units by location or floor area in the applicable zone district.

Accessory Uses Accessory uses may include parking, and garbage, trash and recycling areas consistent with City Code Chapter 12.04.

Accessory uses commonly found include parking of the occupants' vehicles, home occupations, accessory dwelling units, and short-term rentals only where allowed by the applicable zone district, and may be subject to additional regulations.
**Exceptions**
Uses classified as Hotel (Lodge) uses, bed and breakfast, dormitory, boardinghouse.

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**Section 2:**

*Land Use Code Section 26.210.020.B. Director of Community Development Department shall be rescinded and readopted as follows:*

**26.210.020. Director of Community Development Department.**

**B. Jurisdiction, authority and duties.** In addition to the jurisdiction, authority and duties which may be conferred upon the Community Development Department Director by other provisions of this Code, the Community Development Department Director shall have the following jurisdiction, authority and duties:

1. To serve as staff to the City Council, to provide such body with planning and technical assistance and to inform such body of all facts and information available with respect to development applications or any other matters brought before it;

2. To serve as staff to the Planning and Zoning Commission, to provide such body with planning and technical assistance and to inform such body of all facts and information available with respect to development applications or any other matters brought before it;

3. To serve as staff to the Historic Preservation Commission, to provide such body with planning and technical assistance, to inform such body of all facts and information available with respect to development applications or any other matters brought before it and to inform such body regarding historic preservation items being heard by other City boards in advance of those hearings;

4. To serve as staff to the Board of Adjustment and other decision-making bodies established by this Title and to inform such bodies of all facts and information available with respect to development applications or any other matters brought before it;

5. To serve as staff to the Administrative Hearing Officer, to provide such officer with planning and technical assistance and to inform such officer of all facts and information available with respect to appeals of decisions made by an administrative official or any other matters brought before it;

6. To render interpretations of this Title or the boundaries of the Official Zone District Map pursuant to Chapter 26.306;

7. To enforce any provision of this Title or any other provision of this Code;

8. To establish such rules of procedure necessary for the administration of the Community Development Department Director’s responsibilities;
9. To exempt development within an H, Historic Overlay District in accordance with Chapter 26.415;

10. To approve minor modifications to a development order for development or demolition within an H, Historic Overlay District in accordance with Chapter 26.415;

11. To exempt development in an environmentally sensitive area (ESA) in accordance with Chapter 26.435;

12. To exempt development which is subject to special review in accordance with Chapter 26.430;

13. To make determinations of exemptions from the growth management quota system (GMQS), pursuant to Chapter 26.470;

14. To approve, approve with conditions or deny development subject to GMQS administrative approval in accordance with Chapter 26.470;

15. To approve development subject to subdivision administrative approval in accordance with Chapter 26.480;

16. To approve development subject to Planned Development administrative approval in accordance with Chapter 26.445;

17. To undertake all general comprehensive planning responsibilities;

18. To initiate amendments to the text of this Title or to the Official Zone District Map, pursuant to Chapter 26.310;

19. To administer the land use application fee policy, to bill applicants according to said policy, to take such actions deemed necessary in withholding development orders or issuing stop work orders upon nonpayment of review fees and to waive any fees or portions thereof, upon request according to said policy;

20. To approve, approve with conditions or deny development subject to Chapter 26.520, Accessory Dwelling Units and Carriage Houses;

21. To extinguish a transferable development right in accordance with Chapter 26.535;

22. To issue and extinguish Affordable Housing Certificates in accordance with Chapter 26.540; and

23. To assist and staff all aspects of the Master Planning process in accordance with Chapter 26.311.

24. To approve, approve with conditions, or disapprove an application for Administrative Public Project review, pursuant to Chapter 26.500, and to determine if a private development application is eligible for Public Project Review, pursuant to Section 26.500.040.D.

(Ord. No. 55-2000, §1; Ord. No. 54-2003, §3; Ord. No. 12-2007, §5; Ord. No.31-2012, §3; Ord. No. 36-2013, §7; Ord. No. 46-2015, §4)

Section 3: Ordinance #13, Series of 2022

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Land Use Code Section 26.212.010. **Planning and Zoning Commission** shall be rescinded and readopted as follows:

26.212.010. **Powers and duties.**
In addition to any authority granted the Planning and Zoning Commission (hereinafter "Commission") by state law or the Municipal Code of the City of Aspen, Colorado, the Commission shall have the following powers and duties:

A. To initiate amendments to the text of this Title, pursuant to Chapter 26.310;
B. To review and make recommendations of approval or disapproval of amendments to the text of this Title, pursuant to Chapter 26.310;
C. To initiate amendments to the Official Zone District Map, pursuant to Chapter 26.310;
D. To review and make recommendations of approval, approval with conditions or disapproval to the City Council in regard to amendments of the Official Zone District Map, pursuant to Chapter 26.310;
E. To review and make recommendations of approval, approval with conditions, or disapproval to the City Council on a Planned Development Project Review and to approve, approve with conditions, or deny Planned Development Detailed Review, pursuant to Chapter 26.445 – Planned Development;
F. To review and grant allotments for residential, office, commercial and lodge pursuant to growth management quota system (GMQS), pursuant to Chapter 26.470;
G. To hear, review and recommend approval, approval with conditions or disapproval of a plat for subdivision, pursuant to Chapter 26.480;
H. To hear and approve, approve with conditions or disapprove conditional uses pursuant to Chapter 26.425;
I. To hear and approve, approve with conditions or disapprove development subject to special review, pursuant to Chapter 26.430;
J. To hear and approve, approve with conditions or disapprove development in environmentally sensitive areas (ESA), pursuant to Chapter 26.435;
K. To make its special knowledge and expertise available upon reasonable written request and authorization of the City Council to any official, department, board, commission or agency of the City, County, State or the federal government;
L. To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with this Title;
M. To grant variances, not including variances to allowable FAR or height, from the provisions of this Title when a consolidated application is presented to the Commission for review and approval pursuant to Chapter 26.314;

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N. To grant variances from the provisions of this Title when a consolidated application is presented to the Commission for review and approval pursuant to Chapter 26.314;

O. To hear, review and approve variances to the residential design guidelines, pursuant to Chapter 26.410;

P. To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of Chapter 26.410, including appeals of interpretation of the text of the residential design standards. The Commission may only grant relief from the residential design standards. A variance from the residential design standards does not grant an approval to vary other standards of this Chapter that may be provided by another decision-making administrative body; and

Q. To hear, review and approve, approve with conditions or disapprove an application for Public Projects Review, pursuant to Chapter 26.500.

R. To hear, review and approve, approve with conditions or disapprove an application appealing the Community Development Directors determination that Demolition has been triggered pursuant to Chapter 26.580.


Section 4: Land Use Code Sections 26.312.020.G; 26.312.030.F; and 26.312.070. Non-Conformities shall be rescinded and readopted as follows:


1. Ability to restore. Any nonconforming use located in a structure which is purposefully demolished, pursuant to the definition of Demolition, may not be continued or restored. Any nonconforming use located in a structure undergoing construction, which does not constitute a demolition, has an approved development order, and an approved building permit shall not be considered discontinued.

2. Nonwillful destruction. Any nonconforming use which is demolished or destroyed by an act of nature or through any manner not purposefully accomplished by the owner may be restored as of right, regardless of the extent of demolition or destruction, if a building permit for reconstruction is submitted within twenty-four (24) months of the date of demolition or destruction.


1. **Non-purposeful destruction.** Any nonconforming structure that is demolished or destroyed by an act of nature or through any manner not purposefully accomplished by the owner, may be restored as of right if a building permit for reconstruction is submitted within twenty-four (24) months of the date of demolition or destruction.

2. **Purposeful destruction.** Any nonconforming structure that is demolished or destroyed, which is purposefully demolished or destroyed, may be replaced with a different structure only if the replacement structure is in conformance with the current provisions of this Title or unless replacement of the nonconformity is approved pursuant to the provisions of Chapter 26.430, Special Review. Any structure which is nonconforming in regards to the permitted density of the underlying zone district may maintain that specific nonconformity only if a building permit for the replacement structure is submitted within twelve (12) months of the date of demolition or destruction.

   a. **Density Replacement.** A duplex or two single-family residences on a substandard parcel in a zone district permitting such use is a nonconforming structure and subject to nonconforming structure replacement provisions. Density on a substandard parcel is permitted to be maintained but the structure must comply with the dimensional requirements of the Code including single-family floor area requirements.


26.312.070. **Affordable Housing.**

A. Any existing Non-Conforming use or structure in which or use that consists of 100% of the structure or units are currently affordable housing that has a current or proposed to be deed restricted in accordance with APCHA Guidelines, deed restriction shall be exempt from the provisions of this chapter provided the 100% affordable housing use will be added or remain on the parcel. The addition or existence of another land use type shall require compliance with this chapter.

Section 5: Land Use Code Section 26.316.020.C. **Appeals** shall be rescinded and readopted as follows:

26.316.020. **Authority.**

C. **Planning and Zoning Commission.** The Planning and Zoning Commission shall have the authority to hear and decide the following appeals:

1. An adverse determination by the Community Development Director on an application for exemption pursuant to the Growth Management Quota System in accordance with Subsection 26.470.060.D. of this Title.

2. An adverse determination by the Community Development Director that a project triggers Demolition pursuant to Section 26.580.
Section 6:
Land Use Code Section 26.430.030; 26.430.040.B; and 26.430.040.JK. Special Review shall be rescinded and readopted as follows:

Special review shall apply to all development in the City designated for special review by the following chapters or sections of this Title:

- Dimensional requirements (Chapter 26.710 — Zone Districts)
- Replacement of nonconforming structures (Chapter 26.312)
- Reduction of open space requirements in CC Zone District (Subsection 26.575.030.B)
- Off-street parking requirements (Section 26.515.040)
- Reductions in the dimensions of utility and delivery service area provisions (Section 26.575.060.B)
- Subdivision standards (Section 26.480.050)
- Accessory Dwelling Unit Design Standards (Chapter 26.520)
- Wireless telecommunications facilities and/or equipment (Section 26.575.130)
- Affordable housing unit standards (Section 26.470.070.4)
- Variations to the Residential Demolition and Redevelopment Standards (Section 26.580.090)


B. Replacement of nonconforming structures. Whenever a structure or portion thereof, which does not conform to the dimensional requirements of the zone district in which the property is located is proposed to be replaced after Demolition or destruction, the following criteria shall be met:

1. The proposed development shall comply with the conditions of Subsection 26.430.040.A above;
2. There exist special characteristics unique to the property which differentiate the property from other properties located in the same zone district;
3. No dimensional variations are increased, and the replacement structure represents the minimum variance that will make possible the reasonable use of the property; and
4. Literal enforcement of the dimensional provisions of the zone district would cause unnecessary hardship upon the owner by prohibiting reasonable use of the property.

K. Demolition – Residential Demolition and Redevelopment Standards
A project may request variations from the requirements of the *Residential Demolition and Redevelopment Standards* adopted as part of Chapter 26.580 if the Planning and Zoning Commission makes a determination the project meets the intent of the requirements through an alternative design. The Planning and Zoning Commission shall consider the following review criteria, and a recommendation from the Community Development Department and any referral agencies in determining if a project is eligible for a variation:

1. The project is designed in a manner that meets the intent of the *Residential Demolition and Redevelopment Standards*.
2. Although specifics design elements are not provided that meet the specific items included in the *Residential Demolition and Redevelopment Standards*, a design alternative is provided that meets or exceeds the minimum thresholds established in the *Residential Demolition and Redevelopment Standards*.


**Section 7:**
Land Use Code Chapter 26.470, *Growth Management Quota System* shall be rescinded and readopted as follows:

**Chapter 26.470**

**GROWTH MANAGEMENT QUOTA SYSTEM (GMQS)**

Sections:
- Sec. 26.470.010 Purpose.
- Sec. 26.470.030 Applicability and Prohibitions.
- Sec. 26.470.040 Allotment Procedures.
- Sec. 26.470.050 Calculations.
- Sec. 26.470.060 Procedures for Review.
- Sec. 26.470.070 Exempt Development.
- Sec. 26.470.080 General Review Standards.
- Sec. 26.470.090 Administrative applications.
- Sec. 26.470.100 Planning and Zoning Commission applications.
- Sec. 26.470.110 City Council applications.
- Sec. 26.470.120 Yearly Growth Management accounting procedures.
- Sec. 26.470.130 Application contents.
- Sec. 26.470.140 Reconstruction limitations.
- Sec. 26.470.150 Amendment of a growth management development order.
- Sec. 26.470.160 Appeals.

**26.470.010 Purpose**

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The purposes of this Chapter are to: (a) implement the goals and policies for the City and the Aspen Area Community Plan; (b) ensure that growth and development occurs in an orderly and efficient manner in the City; (c) ensure sufficient public facilities are present to accommodate growth and development; (d) ensure that growth and development is designed and constructed to maintain the character and ambiance of the City; (e) ensure the presence of an adequate supply of affordable housing, businesses and events that serve the local, permanent community and the area's tourist base; (f) ensure that growth and development does not overextend the community's ability to provide support services, including employee housing, traffic control and parking; and (g) ensure that the resulting employees generated and impacts created by development and redevelopment are mitigated by said development and redevelopment.


A. Growth Management Year. A year period, lasting from January 1 through December 31, which constitutes the time period that each year’s development allotments are available.

B. Development categories. All development falls into one of four land use categories, which are outlined in Table 1. Table 1 establishes the development categories and units of allocation for each category for purposes of administering this Chapter. Sub-Categories 1.A – 1.B are all considered part of the Residential Uses category, and therefore conversion between these two sub-categories does not require change in use review.
<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Allocation units</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Residential Uses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A. Residential</strong></td>
<td>Dwelling units intended exclusively for residential purposes, not subject to any residency requirements and not including hotels, or lodging. Units may be in the form of single-family, duplex, multi-family or part of a mixed-use structure. (See definitions of Residential use and Dwelling, Sections 26.104.100 and 26.104.110.)</td>
<td>Dwelling units</td>
</tr>
<tr>
<td><strong>B. Residential</strong></td>
<td>Dwelling units intended to house only local working residents that are deed restricted according to the Aspen/Pitkin County Housing Authority Guidelines. Units may be in the form of single-family, duplex, multi-family, dormitory or part of a mixed-use structure. (See definition of Affordable housing, Sections 26.104.100 and 26.104.110.)</td>
<td>Dwelling units</td>
</tr>
<tr>
<td><strong>2. Commercial</strong></td>
<td>Buildings, or portions thereof, supporting office, retail, warehousing, manufacturing, commercial recreation, restaurant/bar or service oriented businesses, including retail and office uses but not including hotel or lodging uses. (See definition of Commercial use, Sections 26.104.100 and 26.104.110.)</td>
<td>Net leasable square feet</td>
</tr>
<tr>
<td><strong>3. Lodging</strong></td>
<td>Buildings, or portions thereof, used to house a transient tourist population on a short-term basis, including lodges, hotels, motels, bed and breakfasts, and timeshare development. (See definition of Hotel, Sections 26.104.100 and 26.104.110.)</td>
<td>Lodging pillows. (Each lodging bedroom shall be considered to be two pillows.)</td>
</tr>
<tr>
<td><strong>4. Essential Public Facilities</strong></td>
<td>Facilities serving essential public purposes used by or for the benefit of the general public and serving the needs of the community. (See definition of Essential public facility, Sections 26.104.100 and 26.104.110.)</td>
<td>Square feet</td>
</tr>
</tbody>
</table>
C. **Annual development allotment.** Each growth management year's potential growth within the City, applied to each type of land use. This is a unit of measurement applied to each type of land use that, if granted, allows the specific development proposal to move forward in the review process. The number of development allotments for each land use is established in Table 2 below. See also Section 26.470.040, Allotment Procedure.

D. **Carry-forward allotment.** The number of unused and unclaimed growth management allotments for each type of development that the City Council determines should be brought forward, or rolled-over, into the next growth management year. Procedures for carry-forward are established in Section 26.470.120, Yearly Growth Management accounting procedures.

E. **Full Time Equivalent (FTE).** A unit of measurement standardizing the workloads of employees. In this Chapter, FTEs refer to the number of employees generated or housed by development.

26.470.030 **Applicability and Prohibitions.**
This Chapter shall apply to all development in the City unless exempted in section 26.470.070, *Exempt Development.*

A. **Number of development applications.** No more than one (1) application for growth

B. A. management allotments on any one (1) parcel shall be considered concurrently. To submit a new application, any active growth management application for the same property must be vacated.

C. **Number of growth management allocations.** No more than one (1) project shall be entitled

D. B. to growth management allotments on any one (1) parcel concurrently. In order to entitle a different project on the same parcel, existing growth allotments must be vacated. (Also see Section 26.470.140, Amendment of a growth management development order.)

E. **No automatic "resubmission" of growth management applications.** Applications shall

F. C. only be eligible for growth allotments within the growth management session in which they are submitted and shall not automatically become eligible for allotments in future sessions or future years. Applications must be resubmitted in order to be eligible for allotments in the next session or next year, as applicable. Resubmission shall effect a new submission date.

G. **Subdivision and other required land use reviews.** Projects requiring additional land use

may be reviewed concurrently with review for growth management, pursuant to Paragraph 26.304.060.B.1.

L—No partial approvals. In order for a project to gain approval, sufficient allotments for every element of the project must be obtained. No partial approvals shall be granted. In circumstances where a proposal requires allotments be granted for various types of uses within the project, the reviewing body shall not grant approval unless allotments for every type of use are available. For example: If a proposal requires that allotments be granted for free-market residential units, affordable housing units and commercial space, and there are no remaining allotments for free-market residential for the year, the project shall be tabled until such time as allotments are available. In the above example, the project shall be tabled in total and not granted allotments for the affordable housing units or the commercial space. Similarly, a project requiring 10,000 sq. ft. of commercial allotments when only 5,000 sq. ft. of commercial allotments remain shall be tabled until such time as allotments are available. Also see multi-year allotments below.

K—Multi-year growth allotments. Projects requiring development allotments in excess of the annual allotment may be granted a multi-year allotment, pursuant to Subsection 26.470.060110.A, or may gain allotments over a multi-year period, provided that the allotment gained in any one (1) year shall not exceed the annual allotment.

For example, a project requesting fifty thousand (50,000) square feet of commercial space may request either a one-time, multi-year allotment of fifty thousand (50,000) square feet or may request approval in the first year for twenty-five thousand (25,000) square feet and request approval for the remaining twenty-five thousand (25,000) square feet in a subsequent year through a multi-year allotment.

Gaining allotments in any year shall not guarantee that allotments will be granted in later years for the same project. Projects requiring a multi-year allotment shall not be granted a development order until all elements of the project have been granted allotments. If the design of a project changes prior to receiving the full allotment needed for a development order, the reviewing body shall determine if the changes are acceptable or if the change invalidates the previously granted allotment and requires a resubmission for allotments. Applications for each year’s allotment need to be submitted, and there shall be no preferential status given to a project granted partial allotment. Projects that do not require allotments in excess of the annual allotment shall not be eligible to gain partial allotments. See No partial approvals above.

M—Non-assignability of growth allotments. Development allotments obtained pursuant to this Chapter shall not be assignable or transferable independent of the conveyance of the real property on which the development allotment has been approved.
Q. No reduction in mitigation requirements. Notwithstanding Section 26.470.000(4).110.D, Essential

P.H. Public Facilities, an applicant may not request a reduction in the mitigation requirements of this Chapter. Properties requesting historic designation pursuant to Chapter 26.415, Historic Preservation, shall be exempt from this provision, provided, however, that any reduction is reviewed and approved by City Council.

Q. No combination of multiple affordable housing requirements allowed. Whenever multiple

R.-I. affordable housing mitigation requirements are required each housing requirement shall be met. For example: A mixed-use project may require two (2) affordable housing units to mitigate an increase in commercial employee generation and two (2) affordable housing units to mitigate free-market residential development. In this case, four (4) affordable housing units are required.


A. General. Aspen area residents have determined that growth and development must be managed to ensure long-term negative consequences associated with development redevelopment and its impacts are minimized. One of the broad themes of the 2012 Aspen Area Community Plan (AACP) is to “manage future development so that it contributes to the long-term viability of a sustainable, demographically diverse visitor-based economy and a vital year-round community.” To implement these goals, the community has established a two percent (2%) growth rate that can be accommodated without compromising community character. The AACP supports a “critical mass of year-round residents” to be housed while maintaining our community character and way of life. Therefore, the Growth Management Quota System does not limit the annual growth rate of affordable housing, while all other types of development shall be limited to not exceed a two-percent annual growth rate. In order to address continued community growth concerns, a growth limit of one-half percent (0.5%) has been implemented for new free-market residential development and the demolition and replacement of existing free-market residential single-family and duplex dwellings.

B. Existing development. The following tables describe the existing (as of March 2007) amount of development in each sector used as a "baseline" in establishing annual allotments and development ceilings.1

1 Source: Pitkin County Assessor, March 7, 2005

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### Commercial Development Within the City (square feet)

<table>
<thead>
<tr>
<th>Commercial use &quot;class&quot;</th>
<th>Leasable square feet for class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchandising</td>
<td>365,486</td>
</tr>
<tr>
<td>Lodging²</td>
<td>19,950</td>
</tr>
<tr>
<td>Offices</td>
<td>113,207</td>
</tr>
<tr>
<td>Recreation</td>
<td>179,824</td>
</tr>
<tr>
<td>Special purpose</td>
<td>144,777</td>
</tr>
<tr>
<td>Warehouse/storage</td>
<td>149,814</td>
</tr>
<tr>
<td>Multi-use</td>
<td>208,331</td>
</tr>
<tr>
<td>Commercial Condos</td>
<td>483,549</td>
</tr>
<tr>
<td><strong>Total commercial:</strong></td>
<td><strong>1,664,938</strong></td>
</tr>
<tr>
<td><strong>2% Annual growth rate for commercial development</strong></td>
<td><strong>33,300</strong></td>
</tr>
</tbody>
</table>

### Residential Development Within the City (units)

<table>
<thead>
<tr>
<th>Property type</th>
<th>Residences in class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>1,268</td>
</tr>
<tr>
<td>Duplex or triplex³</td>
<td>79</td>
</tr>
<tr>
<td>Multi-units 4-8⁴</td>
<td>45</td>
</tr>
<tr>
<td>Multi-units 9+</td>
<td>142</td>
</tr>
<tr>
<td>Condominiums</td>
<td>2,978</td>
</tr>
<tr>
<td>Duplex condos</td>
<td>366</td>
</tr>
<tr>
<td>Manufactured</td>
<td>29</td>
</tr>
</tbody>
</table>

² Lodge unit square footage removed from total. Commercial space within lodge developments estimated through City records.
³ Single ownership duplex and triplex units. 2 units per property ownership estimated.
⁴ Single ownership apartment buildings. Residence count reflects actual number of units recorded with Assessor.

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Partial exempt 1

<table>
<thead>
<tr>
<th>Total residences:</th>
<th>4,909</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonexempt affordable housing units 5</td>
<td>1,132</td>
</tr>
<tr>
<td>Total free-market residences</td>
<td>3,777</td>
</tr>
<tr>
<td>0.5% Annual growth rate for free-market residential development:</td>
<td>18.9 units</td>
</tr>
</tbody>
</table>

**Lodging Development Within the City (Pillows)**

<table>
<thead>
<tr>
<th>Total lodging pillows:</th>
<th>7,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5% Annual growth rate</td>
<td>112.5 pillows</td>
</tr>
</tbody>
</table>

**Annual development allotments.** The Growth Management Quota System establishes annual development allotments available for use by projects during each growth management year. The Community Development Director shall calculate the development allotments available for each type of land use as follows:

\[
\text{Available development allotments} = \text{annual allotment} + \text{Carry-forward allotment from prior year}
\]

The following annual allotments are hereby established:

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Annual Allotment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 2, Development Allotments</td>
<td></td>
</tr>
</tbody>
</table>

5 A total of 1,815 residences within the City are deed-restricted affordable housing. Of these units, several are considered tax-exempt and are not included in the Assessor's counts. These units are rental affordable housing owned by the City, APCHA or tax-exempt nonprofit organizations. Therefore, only the nonexempt units have been subtracted from the Assessor's total residences to determine the number of free-market residences.
Residential — Total Free-Market

New Residential (Subdivision and multi-family units) 19 units divided as follows:
- Single-Family and Duplex Demolition and Redevelopment
  - 13 units
  - 6 units*

Residential — Affordable Housing No annual limit

Commercial 33,000 net leasable square feet

Lodging 112 pillows

Essential public facility No annual limit

*Six (6) Demolition and Redevelopment Allotments represent City Council direction related to an annual average of Single Family and Duplex demolition permits issued between 2013 and 2021.

Note, the annual allotment may be reduced if multi-year allotments are granted by the City Council. Upon a denial of the project and the completion of any appeals, where it’s found the denial was appropriate, the project’s allotments shall not be considered granted and shall be returned to the available allotment pool for the remainder of the year. Allotments shall be considered vacated by a property owner upon written notification from the property owner.

C. Allocation procedure. Following approval or approval with conditions, pursuant to the above procedures for review, the Community Development Director shall issue a development order pursuant to Section 26.304.050, Development orders. Those applicants having received allotments may proceed to apply for any further development approvals required by this Title or any other regulations of the City.

D. Expiration of growth management allotments. Growth management allotments granted pursuant to this Chapter shall expire with the expiration of the development order, pursuant to the terms and limitations of Section 26.304.080, Development Orders. Expired allotments shall not be considered valid, and the applicant shall be required to re-apply for growth management approval. Expired allotments may be added to the next year's available allotments at the discretion of the City Council, pursuant to Subsection 26.470.030.E.120.

A. General. Whenever employee housing or fee-in-lieu is required to mitigate for employees generated by a development, there shall be an employee generation analysis of the proposed development. Unless otherwise specified by this Chapter, the employee mitigation requirement shall be based upon the total employee generation of the proposed development. Except as specifically identified for Commercial Redevelopment, there are no credits granted during redevelopment — although in some circumstances, redeveloped projects with evidence of previous mitigation will be considered in the employee generation analysis. Additionally, credits are not given...
for changes between the land use categories outlined in Table 1. For instance, a change in use from commercial net leasable area to free-market residential units does not generate a credit.

B. Employee generation rates.

1. Non-Residential Uses

Table 3 establishes the employee generation rates that are the result of the Employee Generation Study, an analysis sponsored by the City during the fall and winter of 2012 considering the actual employment requirements of over one hundred (100) Aspen businesses. This study is available at the Community Development Department. Employee generation is quantified as full-time equivalents (FTEs) per one thousand (1,000) square feet of net leasable space or per lodge bedroom.

<table>
<thead>
<tr>
<th>Zone District</th>
<th>Employees Generated per 1,000 Square Feet of Net Leasable Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Core (CC)</td>
<td>4.7</td>
</tr>
<tr>
<td>Commercial (C-1)</td>
<td></td>
</tr>
<tr>
<td>Neighborhood Commercial (NC)</td>
<td></td>
</tr>
<tr>
<td>Commercial Lodge (CL) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge (L) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge Preservation (LP) commercial space</td>
<td></td>
</tr>
<tr>
<td>Lodge Overlay (LO) commercial space</td>
<td></td>
</tr>
<tr>
<td>Ski Base (SKI) commercial space</td>
<td></td>
</tr>
<tr>
<td>Mixed-Use (MU)</td>
<td>3.6</td>
</tr>
<tr>
<td>Service Commercial Industrial (S/C/I)</td>
<td>3.9</td>
</tr>
<tr>
<td>Public</td>
<td>5.1</td>
</tr>
<tr>
<td>Lodge Preservation (LP) lodge units</td>
<td>0.3 per lodging bedroom</td>
</tr>
<tr>
<td>Lodge (L), Commercial Lodge (CL), Ski Base (SKI) and other zone district lodge units</td>
<td>0.6 per lodging bedroom</td>
</tr>
</tbody>
</table>

For the Public Zone, the study evaluated only office-type public uses, and this number should not be considered typical for other non-office public facilities. Hence, each Essential Public Facility proposal shall be evaluated for actual employee generation.

Each use within a mixed-use building shall require a separate calculation to be added to the total for the project. For commercial net leasable space within basement or upper floors, the rates quoted above shall be reduced by twenty-five percent (25%) for the purpose of calculating total employee generation. This reduction shall not apply to lodge units.

For lodging projects with flexible unit configurations, also known as “lock-off units,” each separate “key” or rentable division shall constitute a unit for the purposes of this Section, such that employee generation is assessed on the configuration with the most number of rentable units. Timeshare units and exempt timeshare units are considered lodging projects for the purposes of determining employee generation. Free-market residential units included in a
lodge development and which may be rented to the general public as a lodge unit, shall be counted as a lodge key in the calculation of employee generation.

2. Residential Uses. Employee Generation rates for Residential Uses (single-family, duplex and multifamily have been similarly established. Depending on the nature of development, (examples: new construction on an existing lot, creation of a new subdivision, expansion of Floor Area, or Demolition), different methodologies have been established and are identified and defined in 26.470.090 and 26.470.100.

Table 4. Employee Generation Rates for Residential Uses

<table>
<thead>
<tr>
<th>Residential Use</th>
<th>Employees Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>All free-market residential use types</td>
<td>0.107 per 1,000 square feet of Mitigation Floor Area</td>
</tr>
</tbody>
</table>

a. The residential employee generation rates are based on a study of employment generation of Aspen residences, from both initial construction and ongoing operation, performed by RRC Associates of Boulder, Colorado, dated June 17, 2022.

The following methodology (as depicted in a comprehensive report conducted by RRC in Summer of 2022) was used to determine the above employee generation rate:

i. The calculation of construction labor required for building and remodeling residential units. Labor was calculated assuming employees have more than one job (as outlined in the Regional Housing Study completed in 2019 by RRC), and divided over a 40-year career. 100% of the construction employment generation is included in the adopted rate.

ii. The calculation of operational employment for residential units. The adopted rate included 25% of the operational employment generation.

b. The calculation of Mitigation Floor Area for the purposes of determining employee generation and required mitigation shall be based on the definition of “Mitigation Floor Area” in 26.104.100, Definitions, and further discussed in Section 25.575.020.D.

c. For new construction on a vacant lot, all Mitigation Floor Area shall be included in the calculation of employee generation and required mitigation.

d. For redevelopment or renovation of an existing single-family, duplex, or multi-family unit that does not meet the requirements of Demolition (26.580), only new, additional Mitigation Floor Area shall be calculated towards employee generation and required mitigation, pursuant to Sections 26.470.090.A and B.

e. The calculation of the Employment Generation shall be assessed per dwelling unit. Duplex, triplex, fourplex, or multi-family dwelling units do not combine their Mitigation Floor Area for one calculation.
C. **Employee generation review.** All essential public facilities shall be reviewed by the Planning and Zoning Commission to determine employee generation, pursuant to Section 26.470.110D. In addition, any applicant who believes the employee generation rate is different than that outlined herein may request an employee generation review with the Planning and Zoning Commission during a duly noticed public hearing, pursuant to Section 26.304.060.E. Employee generation review is not available to residential uses that are not part of a commercial or lodge development. In establishing employee generation, the Planning and Zoning Commission shall consider the following:

1) The expected employee generation of the use considering the employment generation pattern of the use or of a similar use within the City or a similar resort.

2) Any unique employment characteristics of the operation.

3) The extent to which employees of various uses within a mixed-use building or of a related off-site operation will overlap or serve multiple functions.

4) A proposed restriction requiring full employee generation mitigation upon vacation of the type of business acceptable to the Planning and Zoning Commission.

5) Any proposed follow-up analyses of the project (e.g., an audit) to confirm actual employee generation. The requirements of any proposed follow-up analysis shall be outlined in a Development Agreement, pursuant to Chapter 26.490.

6) For single-family and duplex development and redevelopment, Employee Generation Review shall be only available for projects that can show evidence that mitigation was previously provided using physical units (on-site or off-site) which are currently deed-restricted and house APCHA qualified residents. The Planning and Zoning Commission will compare the mitigation provided at the time of the unit’s deed restriction with the mitigation currently required for redevelopment using FTEs (Full-time Equivalents) as the basis for comparison. P&Z review shall ensure that any previously provided unit remains consistent with the intent of current APCHA regulations and standards and applicable provisions of the Land Use Code.

D. **Employees housed.** Whenever a project provides residential units on or off site the schedule in Table 45 shall be used to determine the number of employees housed by such units:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Employees Housed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>1.25</td>
</tr>
<tr>
<td>One-bedroom</td>
<td>1.75</td>
</tr>
<tr>
<td>Two-bedroom</td>
<td>2.25</td>
</tr>
<tr>
<td>Three-bedroom or larger</td>
<td>3.00, plus .5 per each additional bedroom</td>
</tr>
<tr>
<td>Dormitory</td>
<td>1.00 employee per 150 square feet of net livable space</td>
</tr>
</tbody>
</table>

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E. Employee housing fee-in-lieu payment. Whenever a project provides employee housing via a fee-in-lieu payment, in part or in total, the amount of the payment shall be based upon the following (fee-in-lieu is only allowed for Categories 1-4, Category 5 is included for any necessary conversions between affordable housing unit types or for the purpose of conversions in the value of Certificates of Affordable Housing Credits):

<table>
<thead>
<tr>
<th>Fee-in-Lieu (per FTE):</th>
<th>Category 1:</th>
<th>$408,054</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Category 2:</td>
<td>$376,475</td>
</tr>
<tr>
<td></td>
<td>Category 3:</td>
<td>$345,691</td>
</tr>
<tr>
<td></td>
<td>Category 4:</td>
<td>$302,879</td>
</tr>
<tr>
<td></td>
<td>Category 5:</td>
<td>$250,375</td>
</tr>
</tbody>
</table>

Payment shall be calculated on a full-time-equivalent employee (FTE) basis according to the Affordable Housing Category designation required by this Title. Unless otherwise stated in this Title or in a Development Order, Fee-in-Lieu payments shall be collected by the City of Aspen Building Department prior to and as a condition of Building Permit issuance.

The Fee-In-Lieu rates shall be updated every five years and adopted by city council ordinance. This 5-year update shall evaluate and include cost analysis of new private and public sector affordable housing projects that have been completed or are otherwise appropriate since the previous update. During the intermediate years, Community Development staff shall propose to City Council an annual update (in January) to the Fee-in-Lieu schedule via Ordinance, utilizing the most recent National Construction Cost Index provided by the Engineering News Record. If the annual increase is approved, updated Fee-in-Lieu figures shall be rounded to the nearest dollar.

The following methodology (as depicted in a comprehensive report conducted by TischlerBise, Affordable Housing Fee-in-Lieu Study, Phase II in Spring of 2021) was used to determine the above Fee-in-Lieu schedule:

1) Utilizing recent public sector, private sector, and public private partnership affordable housing projects, staff and the consultant team identified actual land and construction (hard and soft) costs for a number of recent projects and land purchases.

2) Costs for both land and construction were analyzed by project to the square foot of net livable development and averaged across the projects. Using the Code determined calculation of 400 square feet per full time equivalent (FTE) employee, a total cost of constructing affordable housing per FTE was identified.

3) Utilizing the Aspen Pitkin County Housing Authority (APCHA) Guidelines, established sales and rental rates by Category and bedroom count were used in a calculation to identify the revenue per FTE. Two important assumptions were included for the rental revenue stream: a) revenue (rental income) was calculated over a 15-year period with a 2% annual increase in the rental rate; and b) rental revenue was reduced by 50% to acknowledge common maintenance and operations costs. Sales and Rental Revenue were then averaged per FTE.
4) The per FTE revenue amount for each Category (identified in #3 above) was subtracted from the total development cost per FTE (identified in #2 above). The remainder of each calculation subtracting the Category revenue from the total cost per FTE results in the Category Fee-in-Lieu schedule above.

F. **Employee/square footage conversion.** Whenever an affordable housing mitigation requirement is required to be converted between a number-of-employees requirement and a square-footage requirement, regardless of direction, the following conversion factor shall be used:

1 employee = 400 square feet of net livable area.

G. **Accessory dwelling units as mitigation units.** Accessory dwelling units, approved pursuant to Chapter 26.520 and which are deed-restricted as "for sale" category housing and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority, shall be considered mitigation units and attributed to a project's affordable housing provision, or may be attributable to the creation of Affordable Housing Certificates, subject to the provisions of 26.520 and 26.540. ADUs which are not deed-restricted as category units and are not transferred to qualified purchasers shall not be considered mitigation units and shall not be attributed to a project's affordable housing provision.

(Ord. No. 10-2021, §1; Ord. No. 12-2021, §1.)

26.470.060. **Procedures for Review.**

A development application for growth management shall be reviewed pursuant to the following procedures and standards and the Common Development Review Procedures set forth at Chapter 26.304. According to the type of allotments requested, the following steps are necessary. A development proposal may fall into multiple categories and therefore have multiple processes and standards to adhere to and meet. An application for growth management may be submitted to the Community Development Director on any date of the year.

A. **Administrative Applications.** The Community Development Director shall approve, approve with conditions or deny the application, based on the applicable standards of review in Section 26.470.090, Administrative applications.

B. **Planning and Zoning Commission Applications.** The Planning and Zoning Commission, during a duly noticed public hearing, shall review a recommendation from the Community Development Director and shall approve, approve with conditions, or deny the application, based on the standards of review in Section 26.470.100, Planning and Zoning Commission Applications, and Section 26.470.080, General Review Standards. This requires a one-step process as follows:

**Step One – Public Hearing before the Planning and Zoning Commission or Historic Preservation Commission.**

1) **Purpose:** To determine if the application meets the standards for approval.
2) **Process:** The Planning and Zoning Commission or Historic Preservation Commission shall approve, approve with conditions, or deny an application after considering the recommendation of the Community Development Director and comments and testimony from the public at a duly noticed public hearing. The Historic Preservation Commission shall be the recommending body for historic landmarks, properties requesting landmark designation, and all properties located within a Historic District.

3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.100, Planning and Zoning Commission applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** The Commission’s decision shall be by resolution.

5) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3 and the provisions of Section 26.304.035 – Neighborhood Outreach as applicable.

C. City Council Applications. City Council, during a duly noticed public hearing, shall review a recommendation from the Community Development Director, a recommendation from the Planning and Zoning Commission or Historic Preservation Commission, as applicable, and shall approve, approve with conditions, or deny the application, based on the standards of review in Section 26.470.110, City Council Applications, and Section 26.470.080, General Review Standards. This requires a two-step process as follows:

**Step One – Public Hearing before the Planning and Zoning Commission or Historic Preservation Commission.**

1) **Purpose:** To determine if the application meets the standards for approval.

2) **Process:** The Planning and Zoning Commission or Historic Preservation Commission shall forward a recommendation of approval, approval with conditions, or denial to City Council after considering the recommendation of the Community Development Director and comments and testimony from the public at a duly noticed public hearing. The Historic Preservation Commission shall be the recommending body for historic landmarks, properties requesting landmark designation, and all properties located within a Historic District.

1) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.
3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** The Commission’s recommendation shall be by resolution.

4) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3 and the provisions of Section 26.304.035 – Neighborhood Outreach as applicable.

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**Step Two – Public Hearing before City Council.**

2) **Purpose:** To determine if the application meets the standards for approval.

3) **Process:** The Community Development Director shall provide City Council with a recommendation to approve, approve with conditions, or deny the application, based on the standards of review. City Council shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director, the recommendation from the Planning and Zoning Commission or Historic Preservation Commission, and comments and testimony from the public at a duly noticed public hearing.

3) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.

5) **Standards of review:** The proposed development shall comply with the applicable review standards of Section 26.470.110, City Council applications and Section 26.470.080, General Review Standards.

4) **Form of decision:** City Council decision shall be by ordinance.

5) **Notice requirements:** Posting, Mailing and Publication pursuant to Subparagraph 26.304.060.E.3, the requirements of Section 26.304.035 – Neighborhood Outreach as applicable, and the requisite notice requirements for adoption of an ordinance by City Council.

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**D. Combined Reviews.** An application for growth management review may be combined with development applications for other associated land use reviews, pursuant to Section 26.304.060.B.1, Combined Reviews.
26.470.070 Exempt development.
The following types of development shall be exempt from the provisions of this Chapter. Development exempt from growth management shall not be considered exempt from other chapters of the Land Use Code. Where applicable, exemptions are cumulative.

A. Remodeling or renovation of existing single-family and duplex residential development. The remodeling or renovation of existing single-family and duplex residential properties, that does not trigger Demolition pursuant to 26.580, shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property. When an expansion of Mitigation Floor Area occurs, see Section 26.470.0.090.A.

B. Conversion of an existing single-family residence to a duplex residence or two (2) detached residences or vise-versa, when Demolition is not triggered. The conversion of an existing single-family residence to a duplex residence or two (2) detached single-family residences, or vise-versa, shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property. When an expansion of Mitigation Floor Area occurs, see Section 26.470.060, subsection 2090.A.

C. Remodeling or expansion of existing multi-family residential development. The remodeling of existing multi-family residential dwellings shall be exempt from growth management provided that no additional Mitigation Floor Area is added to the property and provided demolition of a unit or structure does not occur. When an expansion of Mitigation Floor Area occurs, see Section 26.470.060, subsection 2090.B. When demolition occurs, see Paragraph 26.470.070.6100.D, Demolition or redevelopment of multi-family housing. (Also see definition of demolition, Section 26.104.100, and Chapter 26.580 - Demolition.)

D. Remodeling or Relocation of historic structures. The remodeling or permanent or temporary relocation of a structure listed on the Aspen Inventory of Historic Landmark Sites and Structures, shall be exempt from growth management, provided that all necessary approvals are obtained, pursuant to Chapter 26.415, no Mitigation Floor Area expansion occurs, and Demolition is not triggered. Expansions shall be mitigated pursuant to this chapter.

E. Remodeling of existing commercial development. Remodeling of existing commercial buildings and portions thereof shall be exempt from the provisions of growth management, provided that demolition is not triggered, no additional net leasable square footage is created, and there is no change in use. If redevelopment involves an expansion of net leasable square footage, the replacement of existing net leasable square footage shall not require growth management allotments and shall be exempt from providing affordable housing mitigation only if that space previously mitigated. Existing, prior to demolition, net leasable square footage and lodge units shall be documented by the City Zoning Officer prior to demolition. Also see definitions of demolition and net leasable commercial space, Section 26.104.100.
If Demolition is triggered not due to remodel activity but is determined by the Community Development Director to be required for normal maintenance as defined in Title 26 (see definition in section 26.104.100) or to rectify life safety issues, such as replacing a failing roof or mold removal, the square footage impacted by the work shall be exempt from this section. This provision shall not be allowed to increase the height, floor area, net livable area or net leasable area of a building beyond what is the minimum necessary required to comply with the Building Code.

F. Special events. Special events permitted by the City shall be exempt from this Chapter.

G. Accessory dwelling units and carriage houses. The development of accessory dwelling units (ADUs) and carriage houses shall be exempt from the provisions of this Chapter but subject to the provisions of Chapter 26.520, Accessory Dwelling Units and Carriage Houses.

H. Retractable canopies and trellis structures. Trellis structures and retractable canopies appended to a commercial or lodging structure shall be exempt from growth management provided that: a) there is no expansion of floor area; and b) the canopy or trellis structure is not enclosed by walls, screens, windows or other enclosures. Awnings shall be exempt from this Chapter.

I. Public infrastructure. The development of public infrastructure such as roads, bridges,

J. waterways, utilities and associated poles, wires, conduits, drains, hydrants and similar items considered essential services shall be exempt from growth management. Essential public facilities shall not be exempt and shall be reviewed pursuant to Section 26.470.110.D, Essential public facilities. (Also see definition of essential services, Section 26.104.100)

(Ord. No. 6, 2019, §4; Ord. No. 13-2021, §2)

All Planning and Zoning Commission and City Council applications for growth management review shall comply with the following standards.

A. Sufficient Allotments: Sufficient growth management allotments are available to accommodate the proposed development, pursuant to Subsection 26.470.040.B. Applications for multi-year development allotment, pursuant to Paragraph 26.470.110.A shall be required to meet this standard for the growth management years from which the allotments are requested.

B. Development Conformance: The proposed development conforms to the requirements and
D.B. limitations of this Title, of the zone district or a site-specific development plan, any adopted regulatory master plan, as well as any previous approvals, including the Conceptual Historic Preservation Commission approval, the Conceptual Commercial Design Review approval and the Planned Development – Project Review approval, as applicable.

E. Public Infrastructure and Facilities. The proposed development shall upgrade public infrastructure and facilities necessary to serve the project. Improvements shall be at the sole costs of the developer. Public infrastructure includes, but is not limited to, water supply, sewage treatment, energy and communication utilities, drainage control, fire and police protection, solid waste disposal, parking and road and transit services.

G.D. Affordable Housing Mitigation.

1) For commercial development, sixty-five percent (65%) of the employees generated by the additional commercial net leasable space, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing.

2) For lodge development, sixty-five percent (65%) of the employees generated by the additional lodge pillows, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing. For the redevelopment or expansion of existing lodge uses, see section 26.470.100.G.

3) For the redevelopment of existing commercial net leasable space that did not previously mitigate (see Section 26.470.070.F 100.E), the mitigation requirements for affordable housing shall be phased at 15% beginning in 2017, and by 3% each year thereafter until 65% is reached, as follows:
Development Order applied for during calendar year - Mitigation required (percent of employees generated by the existing space that has previously not mitigated)

<table>
<thead>
<tr>
<th>Year</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>15%</td>
</tr>
<tr>
<td>2018</td>
<td>18%</td>
</tr>
<tr>
<td>2019</td>
<td>21%</td>
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<td>2032</td>
<td>60%</td>
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<tr>
<td>2033</td>
<td>63%</td>
</tr>
<tr>
<td>2034</td>
<td>65%</td>
</tr>
</tbody>
</table>

4) Unless otherwise exempted in this chapter, when a change in use between development categories is proposed, the employee mitigation shall be based on the use the development is converting to. For instance, if a commercial space is being converted to lodge units, the mitigation shall be based on the requirements for lodge space, outlined in subsection 2,
above. Conversely, if lodge units are being converted to commercial space, the mitigation shall be based on the requirements for commercial space, outlined in subsections 1 and 3, above.

5) For new residential subdivisions and new multifamily residential development, affordable housing net livable area shall be provided in an amount equal to at least thirty percent (30%) of the additional free-market residential net livable area. See Sections 26.470.100.H and I.

6) For new, redeveloped, or renovated single-family and duplex residential development, or the affordable housing mitigation requirements are established by 26.470.090.A and C.

7) For the expansion of existing free-market multi-family units, affordable housing mitigation requirements are established by 26.470.090.F.

8) For new free-market multi-family units, affordable housing mitigation requirements are established by 26.470.100.D.

9) For the demolition or redevelopment of existing multifamily housing, affordable housing mitigation requirements are established by 26.470.110.D.

For essential public facility development, mitigation shall be determined based on Section 26.470.110.D.

For all affordable housing units that are being provided as mitigation pursuant to this chapter or for the creation of a Certificate of Affordable Housing Credit pursuant to Chapter 26.540, or for any other reason:

i. The proposed units comply with the Aspen/Pitkin County Housing Authority Employee Housing Regulations and Affordable Housing Development Policy, as amended.

ii. Required affordable housing may be provided through a mix of methods outlined in this chapter, including newly built units, buy-down units, certificates of affordable housing credit, or cash-in-lieu.

iii. Affordable housing that is in the form of newly built units or buy-down units shall be located on the same parcel as the proposed development or located off-site within the City limits. Units outside the City limits may be accepted as mitigation by the City Council, pursuant to Section 26.470.110.B. When off-site units within City limits are proposed, all requisite approvals shall be obtained prior to approval of the growth management application.

iv. Affordable housing mitigation in the form of a Certificate of Affordable Housing Credit, pursuant to Chapter 26.540, shall be extinguished pursuant to Section 26.540.120.

v. If the total mitigation requirement for a project is less than 0.1 FTEs, a cash-in-lieu payment may be made by right. If the total mitigation requirement for a project is 0.1 or more FTEs, a cash-in-lieu payment shall require City Council approval, pursuant to Section 26.470.110.C.

vi. Affordable housing units shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing, and be restricted to a Category 4 rate as defined in the Aspen/Pitkin County Housing Authority Guidelines, as amended. An applicant may choose to provide mitigation units at a lower category designation.

vii. Each unit provided shall be designed such that the finished floor level of fifty percent (50%) or more of the unit's net livable area is at or above natural or finished grade, whichever is higher. This dimensional requirement may be varied through Special Review, Pursuant to Chapter 26.430

Affordable housing units that are being provided absent a requirement ("voluntary units") may be deed-restricted at any level of affordability, including residential occupied (RO).

Residential Mitigation Deferral Agreement For property owners qualified as a full-time local working resident, an affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen subject to the Aspen/Pitkin County Housing Authority Employee Housing Regulations. This allows deferral of the mitigation requirement for residential development until such time as the property is no longer owned by a full-time local working resident. Staff of the City of Aspen Community Development Department and Staff of the Aspen/Pitkin County Housing Authority can assist with the procedures and limitations of this option. The City Attorney and Community Development Director shall prescribe the form to be used for a Deferral Agreement. A copy of the Deferral Agreement form is on file with the City of Aspen Community Development Department.

The required mitigation shall be calculated to the FTE and then multiplied by the codified Fee-in-Lieu at the time of building permit submission. This amount will be identified in the Deferral Agreement. Following the establishment of the initial mitigation requirement in the Deferral Agreement, the amount of mitigation initially identified shall increase annually by the CPI for each year that the Deferral Agreement is in effect until such time that the Deferral Agreement is terminated following sale to a non-resident. The term “CPI” shall mean the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, not seasonally adjusted, 1984=100 reference base; published by the United States Department of Labor, Bureau of Labor Statistics. The calculation of the value of the mitigation required at the time of the termination of the Deferral Agreement may be completed using a commonly available calculator that aggregates the CPI over time. The term of the calculation shall be the month of the initial execution of the Deferral Agreement.
Agreement and the most recent index month available at the time of release of the Deferral Agreement. The provision describing this regular annual increase shall be described in the Deferral Agreement. The Deferral Agreement shall be recorded prior to the issuance of a Certificate of Occupancy or Letter of Completion.

Should a property with a Deferral Agreement in place be sold to a qualified resident, a new Deferral Agreement shall be established, identifying the initial mitigation requirement, and an inclusion of the continued annual increases that will continue to accrue from the date of initiation of the original deferral agreement. The initiation date of the original deferral agreement shall be identified in the new deferral agreement.

Deferral Agreements initiated prior to July 28, 2022, shall remain in effect and are not subject to the stipulations described in the paragraphs above. If desired, the parties to a previously established deferral agreement may, at their discretion, enter into a new deferral agreement that that updates the terms to be consistent with the provisions identified above.

(Ord. No. 12, 2019, §2 & 3; Ord. No. 12, 2021, §2; Ord. No. 13-2021, §3)

26.470.090 Administrative applications.

The following types of development shall be approved, approved with conditions or denied by the Community Development Director, pursuant to Section 26.470.060, Procedures for Review, and the criteria described below. Except as noted, all administrative growth management approvals shall not be deducted from the annual development allotments. All approvals apply cumulatively.

A. Single-Family and Duplex Residential Development or Expansion that does not trigger Demolition, pursuant to 26.580.

The following types of free-market residential development do not require a development allotment and may proceed to building permit absent the need of any other land use reviews. These types of development shall require the provision of affordable housing mitigation in one of the methods described in subsection 3 below.

1) This section applies to the new development of a single-family, two detached residential units, or a duplex dwelling on a lot in one of the following conditions:

   a. A lot created by a lot split, pursuant to Subsection 26.480.060.A.

   b. A lot created by a historic lot split, pursuant to Subsection 26.480.060.B, when the subject lot does not itself contain a historic resource.

   c. A lot that was subdivided or was a legally described parcel prior to November 14, 1977, that complies with the provisions of Subsection 26.480.020, Subdivision: applicability, prohibitions, and lot merger.

2) Mitigation shall be based off of the net increase of Mitigation Floor Area of an existing single-family, two detached residential units on a single lot, or a duplex dwelling, during remodeling and renovation scenarios when the definition of Demolition is not met.
3) The applicant shall have four (4) options for providing the required affordable housing mitigation:

a. Recording a resident-occupancy (RO), or lower, deed restriction on the single-family dwelling unit or one of the residences if a duplex or two detached residences are developed on the property. An existing deed restricted unit does not need to re-record a deed restriction.

b. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines (which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit. The mitigation unit must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

c. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

   i. Employment Generation Rate: .12 employees per 1,000 square feet of Mitigation Floor Area.

   ii. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.100 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

4) Additional Mitigation requirements:

a. The calculation of Mitigation Floor Area for the purposes of determining employee generation and required mitigation shall be based on the definition of “Mitigation Floor Area” in 26.104.100, Definitions, and further discussed in 25.575.020.XX.

   See Figure 2, in 26.575.020.D, for a depiction of “Measuring to Face of Framing” in calculating Floor Area from exterior wall.

b. For new construction on a vacant lot, all Mitigation Floor Area shall be included in the calculation of employee generation and required mitigation.

c. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

d. For redevelopment or renovation of an existing single-family or duplex that does not meet the requirements of Demolition (26.580), only new, additional Mitigation Floor Area shall be calculated towards employee generation and required mitigation.
d. The calculation of the Employment Generation shall be assessed per dwelling unit. Duplex dwelling units do not combine their Mitigation Floor Area for one calculation. An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated as Mitigation Floor Area of the primary dwelling.

e. The above generation rates are based on a study of employment generation of Aspen residences, from both initial construction and ongoing operation, performed by RRC Associates of Boulder, Colorado, dated May XX, 2022.

Example 1: A new home of 3,400 square feet of Mitigation Floor Area on a vacant lot created by a historic lot split. The applicant must provide affordable housing mitigation for .41364 FTEs.

\[
3,400 / 1,000 \times .12 = .410.107 = .36
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.

Example 2: An existing home of 4,500 square feet of Mitigation Floor Area is expanded by 250 square feet of Mitigation Floor Area. The renovation does not meet the definition of Demolition. The applicant must provide affordable housing mitigation for .03 FTEs.

\[
250/1000 \times .12 = 0.107 = .03
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or a fee-in-lieu payment.

a. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

B. Multi-Family Residential Expansion. The following types of free-market residential development does not require a development allotment and may proceed directly to building permit. This type of development shall require the provision of affordable housing mitigation in one of the methods described below.

B. The net increase of Mitigation Floor Area of an existing free-market multi-family unit or structure, regardless of when the lot was subdivided or legally described and provided Demolition does not occur, shall require the provision of affordable housing mitigation in one of the methods described below. This type of free-market residential development does not require a development allotment and may proceed directly to building permit. (When demolition occurs, see Section 26.470.100.E, Demolition or redevelopment of multi-family housing.)

1) Mitigation shall be based off the net increase of Mitigation Floor Area of an existing free-market multi-family unit or structure, and provided Demolition does not occur.
2) Affordable housing mitigation requirements for the type of free-market residential development described above shall be as follows. The applicant shall have four (4) options:

b.a. Recording a resident-occupancy (RO), or lower, deed restriction on the dwelling unit(s) being expanded. An existing deed restricted unit does not need to re-record a deed restriction.

c.b. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines (which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit(s). The mitigation unit(s) must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

d.c. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

   i. Employment Generation Rate: 12 employees per 1,000 square feet of Floor Area

   ii.i. When a unit adds Floor Area, the difference between the generation rates of the existing Mitigation Floor Area and the proposed Mitigation Floor Area shall be the basis for determining the number of employees generated. No refunds shall be provided if Floor Area is reduced.

   iii.ii. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.050 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

d. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

   Example 1: A multi-family unit of 1,400 square feet of Floor Area is expanded by 400 square feet of Mitigation Floor Area. The applicant must provide affordable housing mitigation for .050.04 FTEs.

   \[ \frac{400}{1,000} \times \frac{1}{12} = .050.107 = 0.04 \]

   In this example the applicant may provide a Certificate of Affordable Housing Credit or a fee-in-lieu payment.
Example 2: A multi-family unit of 1,400 square feet of Floor Area is expanded by 1,000 square feet of Mitigation Floor Area. The applicant must provide affordable housing mitigation for 120.11 FTEs, the difference in employee generation of the two unit sizes.

$$\frac{1000}{1,000} \times .12 = .120.107 = 0.11$$

In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.

4. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

4) Additional mitigation requirements and information:

The above generation rates are based on a study of employment generation of Aspen residences, from both initial construction and ongoing operation, performed by RRC Associates of Boulder, Colorado, dated May XX, 2022.

a. The calculation of Mitigation Floor Area for the purposes of determining employee generation and required mitigation shall be based on the definition of “Mitigation Floor Area” in 25.104.100, Definitions, and further discussed in 25.575.020.XX.

C. Single-Family and Duplex Redevelopment or Expansion that does trigger Demolition as defined by Section 26.580. Demolition and Redevelopment of Single-Family and Duplex properties shall require a land use application pursuant to Section 26.304, the allocation of a Growth Management allotment, and shall provide affordable housing mitigation in one of the methods described below.

1. Applicability

This review shall apply to all applications for development and redevelopment of single-family and duplex development project that is established as triggers Demolition as outlined in Section 26.580, unless otherwise exempted in Section 26.580.050.

2. Procedures for Review

   a. General. An application for a GMQS review of the Demolition and Redevelopment of a single-family or duplex project shall be submitted (subject to the requirements of 26.304, 26.580 and 26.470.090.C) and will considered in an Administrative Review by the Community Development Director. Following review, an approval would be granted by a recorded Notice of Approval and the issuance of a Development Order. On a single
b. Determination of Applicability. The applicant may request a preliminary Demolition pre-application conference with Community Development staff to determine the applicability of the Chapter and the application submission requirements. If a project is likely to trigger Demolition, a meeting should be set up with a Zoning Officer to confirm if the project is subject to Section 26.580 – Demolition. An applicant must request a Pre-application conference summary outlining application requirements when a project triggers Demolition pursuant to Section 26.580 - Demolition.

c. Timing. Applications for a Demolition Allotment shall be received and processed on a first come, first serve basis. An application shall not be reviewed or considered until determined “Complete” per 26.304. An application may be submitted concurrently with a building permit application for the project. Once determined “Complete” the application will be considered in order with any other “Complete” applications, based on the date and time at which the applications were determined “Complete”. Once in review, the ordering of applications for consideration of an allotment will remain.

d. Residential Demolition and Redevelopment Standards. This document sets the standards under which a redevelopment project will be reviewed and will serve as the basis under which a project will be approved for the issuance of a development allotment. This document, as amended from time to time, is available on Community Development’s web page or may be requested from a staff planner.

e. Combined Reviews. An application for growth management review may be a combined with development applications for other associated land use reviews, pursuant to Section 26.304.060.b.1, Combined Reviews.

f. Variations. An application requesting a Variation of the Residential Demolition and Redevelopment Standards, or the review standards identified below, shall be processed as a Special Review in accordance with the common development review procedures set forth in 26.304. The Special Review (26.430.040.JK) shall be considered a public hearing for which notice has been provided pursuant to 26.304.060.e.3. Review is by the Planning and Zoning Commission. In this case, the granting of the development allotment would not be granted until Planning and Zoning Commission approves the special review.

g. Insufficient Demolition allotments. Any property owner within the City who is prevented from redeveloping a property because that year's Demolition allotments have been entirely allocated may apply for City Council Review for a Multi-Year Development Allotment subject to 26.470.110.A.

3. Review Standards for projects requesting a Demolition Allotment
1. Adequate growth management allotments are available for the project and the project meets any applicable review criteria in Chapter 26.470 – Growth Management Quota System.

2. The project shall meet the requirements of the Residential Demolition and Redevelopment Standards prior to building permit issuance. The project shall be subject to the Residential Demolition and Redevelopment Standards in effect at the time of building permit submission is deemed complete.

4. 4- Application Contents
Applications for a Demolition allotment shall include all application requirements outlined in Section 26.470.130 and Section 26.304, in addition to the following:

A. Demolition diagrams depicting total area to be demolished consistent with the methodology outlined in Section 26.580.050.

B. A written response to all applicable review criteria, including responses to the Residential Demolition and Redevelopment Standards, as amended from time to time pursuant to Section Chapter 26.580.

5. Affordable Housing Mitigation Requirements:

a. Affordable housing mitigation requirements for free-market residential development that triggers Demolition pursuant to Chapter 26.580, shall be as follows. The applicant shall have four (4) options:

i. Recording a resident-occupancy (RO), or lower, deed restriction on the single-family dwelling unit or one of the residences if a duplex or two detached residences are developed on the property. An existing deed restricted unit does not need to re-record a deed restriction.

ii. Providing a deed restricted one-bedroom or larger affordable housing unit within the Aspen Infill Area pursuant to the Aspen/Pitkin County Housing Authority Guidelines (which may require certain improvements) in a size equal to or larger than 30% of the Allowable Floor Area increase to the Free-Market unit. The mitigation unit must be deed-restricted as a "for sale" Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

iii. Providing a fee-in-lieu payment or extinguishing a Certificate of Affordable Housing Credit in a full-time-equivalent (FTE) amount based on the following schedule:

   a. Employment Generation Rate: \( \frac{120.107}{1000} \) per 1000 square feet of Mitigation Floor Area

   b. For redevelopment or renovation of an existing single-family or duplex that meets the definition of Demolition, all Mitigation Floor Area

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(existing and new) shall be calculated toward employee generation and required mitigation.

C. Affordable housing mitigation must be provided at a Category 2 (or lower) rate. Certificates must be extinguished pursuant to the procedures of Chapter 26.540, Certificates of Affordable Housing Credit. Fee-in-lieu rates shall be those stated in Section 26.470.100 – Calculations; Employee Generation and Mitigation, in effect on the date of application acceptance. Providing a fee-in-lieu payment in excess of .10 FTE shall require City Council approval, pursuant to Section 26.470.110.C.

ii. An affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen pursuant to section 26.470.080.D.12.

B. Additional Mitigation requirements and information:

i. See Figure 2, in 26.575.020.D, for a depiction of “Measuring to Face of Framing” in calculating Floor Area from exterior wall.

ii. The calculation of Mitigation Floor Area for the purposes of determining employee generation and required mitigation shall be based on the definition of “Mitigation Floor Area” in 26.104.100, Definitions, and further discussed in 25.575.020.XX

iii. The above generation rates are based on a study of employment generation of Aspen residences, from both initial construction and ongoing operation, performed by RRC Associates of Boulder, Colorado, dated May XX.

Demolition that occurs as a result of an act of nature or through any manner not purposefully accomplished by the owner, shall be evaluated by Community Development Director, and a credit for existing Mitigation Floor Area may be issued toward the reconstruction of the home, see 26.580.

iv. The calculation of the Employment Generation shall be assessed per dwelling unit. Duplex dwelling units do not combine their Mitigation Floor Area for one calculation.

v. An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated pursuant to Section 26.575.020.D.

Example: An existing home is redeveloped in a fashion that meets the definition of Demolition. The redeveloped home has a Mitigation Floor Area of 5,700 sf.

\[
\frac{5,700}{1000} \times 0.12 = 680.107 \text{ FTE}
\]

In this example the applicant may provide a Certificate of Affordable Housing Credit or request City Council accept a fee-in-lieu payment.
D. 100% Affordable Housing Development. All applications for the development of projects that are comprised of 100% affordable housing units, deed-restricted in accordance with the Aspen Pitkin County Housing Authority Regulations, shall be first reviewed administratively for compliance with this Chapter and relevant criteria as described below. Projects found by the Community Development Director to be in full conformance, shall be approved or approved with conditions by recordation of a Notice of Approval and the issuance of a development order. Applications that are not found to be in conformance with this section, shall be subject to GMQS Review with the Planning and Zoning Commission per 26.470.100.C, or the application may be amended to bring the project into conformance for administrative approval.

1) To be approved administratively, a project must meet the following criteria:
   a. “For sale” or rental units.
      i. The proposed units shall be deed-restricted as “for sale” units and transferred to qualified purchasers according to the Aspen Pitkin County Housing Authority Regulations. The developer of the project may be entitled to select the first purchasers, subject to the aforementioned qualifications, pursuant to the Aspen Pitkin County Housing Authority Regulations. The deed restriction may authorize the Aspen Pitkin County Housing Authority or the City to own the unit and rent it to qualified renters as defined in the Aspen Pitkin County Housing Authority Regulations, as amended.; or
      ii. The proposed units may be rental units, including but not limited to rental units owned by an employer, government or quasi-government institution, or non-profit organization if a legal instrument in a form acceptable to the City Attorney ensures permanent affordability of the units. The City encourages affordable housing associated for lodge development to be rental units associated with the lodge operation and contributing to the long-term viability of the lodge; or.
      iii. The proposed units may be a combination of “for sale” and rental units.

b. The units in the project comply with the Aspen Pitkin County Housing Authority’s Regulations and Affordable Housing Development Policy, as amended.

c. The project meets all dimensional requirements of the underlying Zone District as described in Chapter 26.710 and does not require the approval of a variance of any kind from the provisions of 26.575.020. Calculations and Measurements.

d. The project meets all provisions of 26.410. Residential Design Standards and is compliant with Commercial Lodging and Historic District Design Standards and Guidelines as may be applicable. 

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e. The project is in conformance with the requirements of Chapter 26.515, Transportation and Parking Management.

f. If a project is pursuing Certificates of Affordable Housing Credit, the requirements of 26.540 shall be met.

g. A project approved under this administrative process may be comprised of Category and/or Resident-Occupied (RO) units.

h. Each unit provided shall be designed such that the finished floor level of fifty percent (50%) or more of each unit’s net livable area is at or above natural or finished grade, whichever is higher.

i. For projects that are located within a Historic District, but do not contain a historic resource, and for designated sites that do not contain a historic resource, compliance with the following guidelines from the Historic Preservation Design Guidelines will be evaluated administratively by Historic Preservation Staff and assigned monitor from the Historic Preservation Commission:

   i. Create porosity on the site (1.1).
   ii. Ensure proportions of historic buildings in the district are incorporated into new structures (11.3).
   iii. Design a new structure to be recognized as a product of its time (11.6).
   iv. Landscaping

   Refer to the Historic Preservation Design Guidelines for more information on meeting these requirements.

2) For properties that are designated historic and contain a historic resource, the following review process and requirements apply:

a. If an addition of new construction is proposed and the new construction is proposed as detached from the historic resource(s) with a separation of at least 10 feet, a project may be reviewed under this section. If not, the project is fully subject to the requirements of Chapter 26.415, Historic Preservation, including a review of the full project by the Historic Preservation Commission.

b. Prior to an administrative review as defined by 26.470.090.D., above, a project would be reviewed in a 1-step review in a public hearing with the Historic Preservation Commission on the following aspects of the project:

   a. Review of 100% Affordable Housing Development on Designated Sites in a Historic District but Not containing a Historic Resource; and on Designated Sites Outside of Districts and Not Containing a Resource.
Development of these properties, when the use is 100% affordable housing, shall be approved or approved with conditions by Administrative Review if compliant with Chapter 26.410, Residential Design Standards; Chapter 26.470, Growth Management; Chapter 26.515, Transportation and Parking Management; Chapter 26.540, Certificates of Affordable Housing Credit, and Chapter 26.710 for the applicable Zone District. In addition, the Historic Preservation Officer and the Chair of the Historic Preservation Commission, or their assign, must jointly determine compliance with the following non-flexible design standards.

a. Create porosity on the site. To meet this standard, achieve at least one of the following:
   i. Provide a front setback one-and-a-half (1.5) times the minimum requirement of the zone district; or
   ii. Provide at least two (2) usable private outdoor spaces, such as porches or upper floor decks, which are at least six (6) feet deep and fifty (50) square feet in area on the street-facing façade(s); or
   iii. Provide a shared outdoor gathering area of at least 100 square feet in area, so that at least fifty (50) square feet in area can be directly viewed from the street.

b. Ensure proportions of historic resources are incorporated in a new structure. All street-facing façades of the development shall be demonstrated through a diagram to include at least one (1) instance of a width by height modulation that directly reflects a width by height modulation of the nearest historic primary structure on the block face(s).

c. Design the development to be recognized as a product of its time. Consider these three (3) aspects of the architecture: roof form, materials, and fenestration. The development must relate strongly to at least one (1) specific designated historic resource on the block face and in the same zone district in at least two (2) of these categories. Departing from that historic resource in one of these categories allows for creativity and a contemporary design response.
   i. When choosing to relate to roof form, match a primary roof pitch of the development to at least one (1) primary roof pitch found on the historic resource.
   ii. When choosing to relate to materials, match at least one primary material of the development to that on the historic resource. A change in the finish, dimension or orientation is allowed.
   iii. When choosing to relate to fenestration, match at least one street-facing window on the development to the dimensions of at least one (1) street-facing window on the historic resource. A change in window finish or orientation is allowed.

3) Review of 100% Affordable Housing Development on Designated Sites Containing a Historic Resource where the Historic Resource is fully detached from all new construction, and all non-historic additions are to be removed, and no new addition
will be made to the historic resource, and all new construction taller than one story is distanced at least 10 feet from the historic resource on all sides.

Development of these properties, when the use is 100% affordable housing, shall be subject to a one step review by the Historic Preservation Commission, for compliance with Section 26.415.070.C, Certificate of appropriateness for a minor development (demolition of non-historic additions and all work directly affecting the historic resource); and Section 26.415.090 Relocation of designated historic properties. All City of Aspen Historic Preservation Design Guidelines applicable to work affecting the historic resource shall apply in addition to the following criteria:

a. HPC may not deny relocation, but will conduct a review to determine the most appropriate siting for the historic structure that accommodates the full development rights for the property. All elements of any new construction must be at least 10’ from the resource on all sides. HPC may approve setback variations for the placement of the historic resource, as necessary. A Conceptual site plan representing the full project must be provided to assist in this review.

   i. Demolition: HPC will review all proposed demolition affecting the historic resource to ensure that only non-historic fabric is removed.

   b. The applicant will be required to complete all necessary repairs to historic fabric that will be completed during construction including exterior materials, doors and windows, and must complete. The summary must also identify all opportunities to restore an element of the historic resource to an earlier condition that can be documented through photographs or physical inspection. HPC will prioritize and require up to three restoration actions prioritized by HPC to improve the integrity of the historic resource. (3) of these to be completed during construction.

   Examples might include: re-opening of an enclosed porch, restoration of the original design of a street facing window, and restoration of missing details such as decorative porch trim.
ii. Landscaping

iii. Floor Area bonuses may not be granted under this review.

d. Following approval by HPC, As applicable, site development shall be designed so that:

i. A front walkway to the form of a Resolution historic resource shall be no wider than the minimum requirement for accessibility, shall run directly from the street to the door unless necessary to avoid a preserved tree, and shall be gray concrete, brick, rectilinear stone or flagstone, to be determined by HPC.

ii. Stormwater facilities and conveyances shall be demonstrated to fully integrated with the surrounding landscape palette when viewed from the public right of way.

iii. The perimeter of the historic resource shall be entirely bordered by a gravel or small diameter rock planting strip one (1) foot in width to protect from the impacts of landscape planting and watering. No plant material around the historic resource shall have an identified mature height taller than forty-two inches (42”), other than one shrub or tree, placed with the mature size of the species in mind. No hardscape, other than a front walkway, shall be permitted in street-facing yards around the historic resource.

iv. Perimeter fences which are considered part of the historic significance of a site shall be retained and repaired and cannot be moved, removed, or inappropriately altered.

v. Any new fence between the historic resource and the street shall be no more than forty-two inches (42”) in height and shall have no less than a solid to void ratio of fifty-percent (50%).

e. Following HPC review, Administrative Review will be conducted for determination that the new construction on the site is in compliance with Chapter 26.410, Residential Design Standards; Chapter 26.470, Growth Management; Chapter 26.515, Transportation and Parking Management; Chapter 26.540, Certificates of Affordable Housing Credit, and Chapter 26.710 for the applicable Zone District. In addition, the Historic Preservation Officer and the Chair of the Historic Preservation Commission, or their assign, must jointly determine compliance with the following non-flexible design standards.

i. Ensure proportions of historic resources are incorporated into the administrative review described above in 26.470.090.D.1 in a new structure. All street-facing façade(s) of the development shall be demonstrated through a diagram to include at least one (1) instance of a width by height modulation that directly reflects a width by height modulation of the historic resource.

ii. Design the development to be recognized as a product of its time. Consider these three aspects of the architecture: roof form, materials, and...
fenestration. The development must relate strongly to the historic resource in at least two (2) of these categories. Departing from the historic resource in one of these categories allows for creativity and a contemporary design response.

1. When choosing to relate to roof form, match a primary roof pitch of the development to at least one primary roof pitch found on the historic resource.

2. When choosing to relate to materials, match at least one primary material of the development to that on the historic resource. A change in the finish, dimension or orientation is allowed.

3. When choosing to relate to fenestration, match at least one street-facing window on the development to the dimensions of at least one street-facing window on the historic resource. A change in window finish or orientation is allowed.

iii. Allow the resource to be read as the unique architectural highlight of the property. Demonstrate that the historic resource will be distinguished from the new development through its height, ornamentation, or primary material.

3) Application Materials. In addition to the application materials required by section 26.470.130 and 26.304, the following shall be included in an application for administrative review of a 100% affordable housing project:

a. Floor Plans – that include detailed drawings of individual units including floor area and net livable area for the entire site and unit by unit breakdown.

b. Elevations that provide detail on height and fenestration.

c. Parking Plan – that includes detail on access and relationship to the right-of-way.

d. Residential Design Standards Application

   ←Narrative that describes the unit types and sizes, proposed categories of units, unit

   ←and project amenities and otherwise describes compliance with 26.470.090.C.1.a-i.

Any necessary submittal items necessary to provide sufficient detail in meeting the review standards identified in 26.470.090.D.1.i or 26.470.090.D.2 above. This may include site plans, relocation plans, demolition plans, landscaping plans etc. for projects subject to the identified elements of the Historic Preservation Design Guidelines.
4)5) Review Process.
   a. Application is submitted and accepted for review consistent with 26.304. Common Development Procedures.
   b. APCHA, Engineering, Environmental Health and Parks shall be formal referral agencies on the application to identify any necessary conditions of approval.
   c. While not required, it is highly encouraged that a meeting with the Development Review Committee is scheduled prior to approval to resolve any potential issues at this early stage of the design process to facilitate a more efficient building permit review.
   d. If applicable, an HPC approval, pursuant to 26.470.090.D.2 shall be completed before the completion of the administrative review process.
   e. Approval shall be granted by the Community Development Director in the form of a recorded Notice of Approval. A Development Order shall be subsequently issued.

E. Minor expansion of a commercial, lodge or mixed-use development. The minor enlargement of a property, structure or portion of a structure for commercial, lodge or mixed-use development when demolition is not triggered shall be approved, approved with conditions or denied by the Community Development Director based on the following criteria. The additional development of uses identified in Section 26.470.020 shall not be deducted from the respective annual development allotments.

   a. The expansion involves no more than five-hundred (500) square feet of net leasable space, no more than two-hundred-fifty (250) square feet of Floor Area, and no more than three (3) additional hotel/lodge units. No employee mitigation shall be required.
   b. The expansion involves no residential units.
   c. This shall be cumulative and shall include administrative GMQS approvals granted prior to the adoption of Ordinance No. 22, Series of 2013.
   d. When demolition is triggered, the application shall be reviewed pursuant to Section 25.470.100(F), Expansion or new commercial development.

G.F. Sale of locally-made products in common areas of commercial buildings. Commercial use of common areas within commercial and mixed-use buildings which contain commercial use (a.k.a. “non-unit spaces,” “arcades,” “hallways,” “lobbies,” or “malls”) shall be

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approved, approved with conditions or denied by the Community Development Director based on the following criteria.

1) Products shall be limited to arts, crafts, or produce designed, manufactured, created, grown, or assembled in the Roaring Fork Valley, defined as the watershed of the Roaring Fork River plus the municipal limits of the City of Glenwood Springs. Exempt from these product and geographic limitations are items sold by a hardware store adjacent to the common area and items incidental to arts, crafts, and produce such as frames and pedestals.

2) The area can be used by an existing business within the building or by “stand-alone” businesses. Multiple spaces may be created.

3) These areas shall not be considered net leasable space for the purposes of calculating impact fees or redevelopment credits. No employee mitigation shall be required. Compliance with all zoning, building, and fire codes is mandatory.

**H.G. Outdoor food/beverage vending license.** Outdoor food/beverage vending shall be approved, approved with conditions or denied by the Community Development Director based on the following criteria:

1) **Location.** All outdoor food/beverage vending must be on private property and may be located in the Commercial Core (CC), Commercial (C1), Neighborhood Commercial (NC), or Commercial Lodge (CL) zone districts. Outdoor Food Vending may occur on public property that is subject to an approved mall lease. Additional location criteria:
   a. The operation shall be in a consistent location as is practically reasonable and not intended to move on a daily basis throughout the duration of the permit.
   b. Normal operation, including line queues, shall not inhibit the movement of pedestrian or vehicular traffic along the public right-of-way.
   c. The operation shall not interfere with required emergency egress or pose a threat to public health, safety and welfare. A minimum of six (6) foot ingress/egress shall be maintained for building entrances and exits.

2) **Size.** The area of outdoor food/beverage vending activities shall not exceed fifty (50) square feet per operation. The area of activity shall be defined as a counter area, equipment needed for the food vending activities (e.g. cooler with drinks, snow cone machine, popcorn machine, etc.), and the space needed by employees to work the food vending activity.

3) **Signage.** Signage for outdoor food/beverage vending carts shall be exempt from those requirements found within Land Use Code Section 26.510, Signs, but not excluding *Prohibited Signs*. The total amount of signage shall be the lesser of fifty percent (50%) of the surface area of the front of the cart, or six (6) square feet. Sign(s) shall be painted on or

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affixed to the cart. Any logos, lettering, or signage on umbrellas or canopies counts towards this calculation. Food carts may have a sandwich board sign in accordance with the regulations found within Chapter 26.510.

4) **Environmental Health Approval.** Approval of a food service plan from the Environmental Health Department is required. The area of outdoor food vending activities shall include recycling bins and a waste disposal container that shall be emptied daily and stored inside at night and when the outdoor food vending activities are not in operation. Additionally, no outdoor, open-flame char-broiling shall be permitted pursuant to Municipal Code Section 13.08.100, Restaurant Grills.

5) **Building and Fire Code Compliance.** All outdoor food/beverage vending operations must comply with adopted building and fire codes. Applicants are encouraged to meet with the City’s Building Department to discuss the vending cart/stand.

6) **Application Contents.** An application for a food/beverage vending license shall include the standard information required in 26.304.030.B, plus the following:

   a. Copy of a lease or approval letter from the property owner.

   b. A description of the operation including days/hours of operation, types of food and beverage to be offered, a picture or drawing of the vending cart/stand, and proposed signage.

   c. The property survey requirement shall be waived if the applicant can demonstrate how the operation will be contained on private property.

7) **License Duration.** Outdoor food/beverage vending licenses shall be valid for a one (1) year period beginning on the same the date that the Notice of Approval is signed by the Community Development Director. This one (1) year period may not be separated into non-consecutive periods.

8) **License Renewal.** Outdoor food/beverage vending licenses may be renewed. Upon renewal the Community Development Director shall consider the returning vendor’s past performance. This shall include, but shall not be limited to, input from the Environmental Health Department, Chief of Police, special event staff, and feedback from adjacent businesses. Unresolved complaints may result in denial of a renewal request.

9) **Business License.** The vending operator must obtain a business license.

10) **Affordable Housing and Impact Fees Waived.** The Community Development Director shall waive affordable housing mitigation fees and impact fees associated with outdoor food/beverage vending activities.

11) **Maintenance and public safety.** Outdoor food/beverage vending activities shall not diminish the general public health, safety or welfare and shall abide by applicable City regulations,
including but not limited to building codes, health safety codes, fire codes, liquor laws, sign and lighting codes, and sales tax license regulations.

12) Abandonment. The City of Aspen may remove an abandoned food/beverage vending operation, or components thereof, in order protect public health, safety, and welfare. Costs of such remediation shall be the sole burden of the property owner.

13) Temporary Cessation. The Community Development Director may require a temporary cancelation of operations to accommodate special events, holidays, or similar large public gatherings. Such action will be taken if it is determined that the food/beverage cart will create a public safety issue or create an excessive burden on the event activities.

13)14) License Revocation. The Community Development Director may deny renewal or revoke the license and cause removal of the food/beverage vending operation if the vendor fails to operate consistent with these criteria. An outdoor food/beverage vending license shall not constitute nor be interpreted by any property owner, developer, vendor, or court as a site-specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes or Chapter 26.308 of this Title. Licenses granted in this subsection are subject to revocation by the City Manager or Community Development Director without requiring prior notice.

1.—Temporary uses and structures. The development of a temporary use or structure shall

be exempt from growth management, subject to the provisions of Chapter 26.450, Temporary and Seasonal Uses. Temporary external airlocks shall only be exempt from the provisions of this Chapter if compliant with applicable sections of Commercial Design Review – Chapter 26.412, and approved pursuant to Chapter 26.450 Temporary and Seasonal Uses. Tents, external airlocks, and similar temporary or seasonal enclosures located on commercial properties and supporting commercial use shall only be exempt from the provisions of this Chapter, including affordable housing mitigation requirements, if compliant with applicable sections of Commercial Design Review – Chapter 26.412, if erected for 14 days or less in a 12-month period, and approved pursuant to Chapter 26.450 – Temporary and Seasonal Uses. Erection of these enclosures for longer than 14 days in a 12-month period shall require compliance with Commercial Design Review – Chapter 26.412, and compliance with the provisions of this Chapter including affordable housing mitigation. Affordable housing mitigation shall be required only for the days in excess of 14 in a 12-month period. Cash-in-lieu may be paid by-right. The mitigation calculation shall include the expected lifespan of a building, which is currently 30 years. For instance, a 500 sq. ft. tent proposed to be up for 21 days shall only require mitigation for seven (7) days. The calculation would be as follows:

Methodology:
• 500 sq. ft. / 1000 sq. ft. = .5 sq. ft.
• .5 sq. ft. x 4.7 FTEs = 2.35 FTEs generated
• 2.35 FTEs x 65% mitigation rate = 1.5275 FTEs to be mitigated if structures are in use 100% of the year
• 1.5275 FTEs / 365 days per year = .004184931 daily rate
• .004184931 x 7 days = .029294517 FTEs
• .029294517 x $223,072 cash-in-lieu rate = $6,534.78
• $6,534.78 / 30 years = $217.82 due for mitigation of the structure for a period of 7 days

(Ord. No. 6, 2019, §5; Ord. No. 12, 2019, §4, §5, §6, §7)

26.470.100 Planning and Zoning Commission applications. The following types of development shall be approved, approved with conditions or denied by the Planning and Zoning Commission, pursuant to Section 26.470.060, Procedures for review, and the criteria for each type of development described below. Except as noted, all growth management applications shall comply with the general requirements of Section 26.470.080. Except as noted, the following types of growth management approvals shall be deducted from the annual development allotments. Approvals apply cumulatively.

A. Change in use. A change in use of an existing property, structure or portions of an existing structure between the development categories identified in Section 26.470.020 (irrespective of direction), for which a certificate of occupancy has been issued and which is intended to be reused, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080. No more than one (1) free-market residential unit may be created through the change-in-use.

B. Expansion of free-market residential units within a multi-family or mixed-use project. The net livable area expansion of existing free-market residential units within a mixed-use project shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080. The remodeling or expansion of existing multi-family residential dwellings shall be exempt from growth management as long as no demolition occurs, pursuant to Section 26.470.070.C. Expansion of existing free-market residential units shall not require a development allotment.

C. Affordable Housing. The development of affordable housing that does not qualify for administrative review and approval under the criteria established in 26.470.090.C, shall be approved, approved with conditions, or denied by the Planning and Zoning Commission based on the general requirements outlined in 26.470.080, and all other applicable review criteria of this title. If the affordable housing project is located in a historic district or on a historically designated property, the Historic Preservation Commission is the review body for this review. Additionally, the following shall apply to all affordable housing development:

1. The proposed units shall be deed-restricted as “for sale” units and transferred to qualified purchasers according to the Aspen Pitkin County Housing Authority Regulations. The developer of the project may be entitled to select the first purchasers, subject to the aforementioned qualifications, pursuant to the Aspen Pitkin County Housing Authority

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Regulations. The deed restriction shall authorize the Aspen Pitkin County Housing Authority or the City to own the unit and rent it to qualified renters as defined in the Aspen Pitkin County Housing Authority Regulations, as amended.

2. The proposed units may be rental units, including but not limited to rental units owned by an employer, government or quasi-government institution, or non-profit organization if a legal instrument in a form acceptable to the City Attorney ensures permanent affordability of the units. The City encourages affordable housing associated for lodge development to be rental units associated with the lodge operation and contributing to the long-term viability of the lodge.

3. A combination of “for sale” and rental units is permitted.

D. **Demolition or redevelopment of multi-family housing**. The City's neighborhoods have traditionally been comprised of a mix of housing types, including those affordable by its working residents. However, because of Aspen's attractiveness as a resort environment and because of the physical constraints of the upper Roaring Fork Valley, there is constant pressure for the redevelopment of dwellings currently providing resident housing for tourist and second-home use. Such redevelopment results in the displacement of individuals and families who are an integral part of the Aspen work force. Given the extremely high cost of and demand for market-rate housing, resident housing opportunities for displaced working residents, which are now minimal, will continue to decrease.

Preservation of the housing inventory and provision of dispersed housing opportunities in Aspen have been long-standing planning goals of the community. Achievement of these goals will serve to promote a socially and economically balanced community, limit the number of individuals who face a long and sometimes dangerous commute on State Highway 82, reduce the air pollution effects of commuting and prevent exclusion of working residents from the City's neighborhoods.

The Aspen Area Community Plan established a goal that affordable housing for working residents be provided by both the public and private sectors. The City and the Aspen/Pitkin County Housing Authority have provided affordable housing both within and adjacent to the City limits. The private sector has also provided affordable housing. Nevertheless, as a result of the replacement of resident housing with second homes and tourist accommodations and the steady increase in the size of the workforce required to assure the continued viability of Aspen area businesses and the City's tourist-based economy, the City has found it necessary, in concert with other regulations, to adopt limitations on the combining, demolition or conversion of existing multi-family housing in order to minimize the displacement of working residents, to ensure that the private sector maintains its role in the provision of resident housing and to prevent a housing shortfall from occurring.

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The combining, demolition (see definition of demolition.), conversion, or redevelopment of multi-family housing shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on compliance with the following requirements:

1. **Requirements for combining, demolishing, converting or redeveloping free-market multi-family housing units:** Only one (1) of the following three (3) options is required to be met when combining, demolishing, converting or redeveloping a free-market multi-family residential property. To ensure the continued vitality of the community and a critical mass of local working residents, no net loss of density (total number of units) between the existing development and proposed development shall be allowed.

   a. **One-hundred-percent replacement.** In the event of the demolition of free-market multi-family housing, the applicant shall have the option to construct replacement housing consisting of no less than one hundred percent (100%) of the number of units, bedrooms and net livable area demolished. The replacement units shall be deed-restricted as resident occupied (RO) affordable housing, pursuant to the Guidelines of the Aspen/Pitkin County Housing Authority. In summary, this option replaces the demolished free-market units with an equal number of units, bedrooms and net livable area of deed-restricted, Resident Occupied (RO) development. An applicant may choose to provide the mitigation units at a lower category designation. Each replacement unit shall be approved pursuant to Subsection C, Affordable housing, of this Section.

   When this one-hundred-percent standard is accomplished, the remaining development on the site may be free-market residential development with no additional affordable housing mitigation required as long as there is no increase in the number of free-market residential units on the parcel. Free-market units in excess of the total number originally on the parcel shall be reviewed pursuant to Section 26.470.100, subsection H or I, Residential Development – sixty (60%) or seventy (70%) percent affordable as required.

   b. **Fifty-percent replacement.** In the event of the demolition of free-market multi-family housing and replacement of less than one hundred percent (100%) of the number of previous units, bedrooms or net livable area as described above, the applicant shall be required to construct affordable housing consisting of no less than fifty percent (50%) of the number of units, bedrooms and the net livable area demolished. The replacement units shall be deed-restricted as Category 4 housing, pursuant to the guidelines of the Aspen/Pitkin County Housing Authority. In summary, this option replaces the free-market units – with 50% of the new units, bedrooms and net livable area allowed as free market units and 50% of the new units, bedrooms and net livable area required as deed-restricted, Category 4, affordable housing units. An applicant may choose to provide mitigation units at a lower category designation. Each replacement unit shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.
When this fifty-percent standard is accomplished, the remaining development on the site may be free-market residential development as long as additional affordable housing mitigation is provided pursuant to Section 26.470.080 – General Requirements, and there is no increase in the number of free-market residential units on the parcel. Free-market units in excess of the total number originally on the parcel shall be reviewed pursuant to Section 26.470.100, subsection H or I, Residential Development – sixty (60%) or seventy (70%) percent affordable as required.

c. **One-hundred percent affordable housing replacement.** When one-hundred percent of the free-market multi-family housing units are demolished and are solely replaced with deed-restricted affordable housing units on a site that are not required for mitigation purposes, including any net additional dwelling units, pursuant to Section 26.470.110.D190.C or 26.470.100.C, Affordable Housing; all of the units in the redevelopment are eligible for a Certificate of Affordable Housing Credit, pursuant to Section 26.540 Certificate of Affordable Housing Credit. Any remaining unused free market residential development rights shall be vacated.

2. **Requirements for demolishing deed-restricted, affordable multi-family housing units:** In the event a project proposes to demolish or replace existing deed-restricted affordable housing units, the redevelopment may increase or decrease the number of units, bedrooms or net livable area such that there is no decrease in the total number of employees housed by the existing units. The overall number of replacement units, unit sizes, bedrooms and category of the units shall comply with the Aspen/Pitkin County Housing Authority Guidelines.

3. **Location requirement.** Multi-family replacement units, both free-market and affordable, shall be developed on the same site on which demolition has occurred, unless the owner shall demonstrate and the Planning and Zoning Commission determines that replacement of the units on site would be in conflict with the parcel's zoning or would be an inappropriate solution due to the site's physical constraints.

When either of the above circumstances result, the owner shall replace the maximum number of units on site which the Planning and Zoning Commission determines that the site can accommodate and may replace the remaining units off site, at a location determined acceptable to the Planning and Zoning Commission, or may replace the units by extinguishing the requisite number of affordable housing credits, pursuant to Sec. 26.540, Certificates of Affordable Housing Credit.

When calculating the number of credits that must be extinguished, the most restrictive replacement measure shall apply. For example, for an applicant proposing to replace one 1,000 square foot three-bedroom unit at the 50% rate using credits, the following calculations shall be used:
- 50% of 1,000 square feet = 500 square feet to be replaced. At the Code mandated rate of 1 FTE per 400 square feet of net livable area, this requires the extinguishments of 1.25 credits; or

- A three-bedroom unit = 3.0 FTE’s. 50% of 3.0 FTE’s = 1.50 credits to be extinguished.

Therefore, in the most restrictive application, the applicant must extinguish 1.50 credits to replace a three-bedroom unit at the 50% rate. The credits to be extinguished would be Category 4 credits.

4. **Fractional unit requirement.** When the affordable housing replacement requirement of this Section involves a fraction of a unit, fee-in-lieu may be provided only upon the review and approval of the City Council, to meet the fractional requirement only, pursuant to Paragraph 26.470.110.C, Provision of required affordable housing via a fee-in-lieu payment.

5. **Timing requirement.** Any replacement units required to be deed-restricted as affordable housing shall be issued a certificate of occupancy, according to the Building Department, and be available for occupancy at the same time as, or prior to, any redeveloped free-market units, regardless of whether the replacement units are built on site or off site.

6. **Redevelopment agreement.** The applicant and the City shall enter into a redevelopment agreement that specifies the manner in which the applicant shall adhere to the approvals granted pursuant to this Section and penalties for noncompliance. The agreement shall be recorded before an application for a demolition permit may be accepted by the City.

7. **Growth management allotments.** The existing number of free-market residential units, prior to demolition, may be replaced exempt from growth management, provided that the units conform to the provisions of this Section. The redevelopment credits shall not be transferable separate from the property unless permitted as described above in Subparagraph 43, Location requirement.

8. **Exemptions.** The Community Development Director shall exempt from the procedures and requirements of this Section the following types of development involving Multi-Family Housing Units. An exemption from these replacement requirements shall not exempt a development from compliance with any other provisions of this Title:

   a. The replacement of Multi-Family Housing Units after non-willful demolition such as a flood, fire, or other natural catastrophe, civil commotion, or similar event not purposefully caused by the landowner. The Community Development Director may
require documentation be provided by the landowner to confirm the damage to the building was in-fact non-willful.

To be exempted, the replacement development shall be an exact replacement of the previous number of units, bedrooms, and square footage and in the same configuration. The Community Development Director may approve exceptions to this exact replacement requirement to accommodate changes necessary to meet current building codes; improve accessibility; to conform to zoning, design standards, or other regulatory requirements of the City; or, to provide other architectural or site planning improvements that have no substantial effect on the use or program of the development. (Also see Chapter 26.312 – Nonconformities.) Substantive changes to the development shall not be exempted from this Section and shall be reviewed as a willful change pursuant to the procedures and requirements of this Section.

b. The demolition of Multi-Family Housing Units by order of a public agency including, but not limited to, the City of Aspen for reasons of preserving the life, health, safety, or general welfare of the public.

e—The demolition, combining, conversion, replacement, or redevelopment of Multi-Family Housing Units which have been used exclusively as tourist accommodations or by non-working residents. The Community Development Director may require occupancy records, leases, affidavits, or other documentation to the satisfaction of the Director to demonstrate that the unit(s) has never housed a working resident. All other requirements of this Title shall still apply including zoning, growth management, and building codes.

d—The demolition, combining, conversion, replacement, or redevelopment of Multi-Family Housing Units which were illegally created (also known as “Bandit Units”). Any improvements associated with Bandit Units shall be required to conform to current requirements of this Title including zoning, growth management, and building codes. Replaced or redeveloped Bandit Units shall be deed restricted as Resident Occupied affordable housing, pursuant to the Guidelines of the Aspen/Pitkin County Housing Authority.

g—Any development action involving demising walls or floors/ceilings necessary for the normal upkeep, maintenance, or remodeling of adjacent Multi-Family Housing Units.

h—A change order to an issued and active building permit that proposes to exceed the limitations of remodeling/demolition to rebuild portions of a structure which, in the opinion of the Community Development Director, should be rebuilt for structural,
safety, accessibility, or significant energy efficiency reasons first realized during construction, which were not known and could not have been reasonably predicted prior to construction, and which cause no or minimal changes to the exterior dimensions and character of the building.

(Ord. No. 12, 2021, §1)

**E. Expansion or new commercial development** The expansion of an existing commercial

**E.F.** building or commercial portion of a mixed-use building or the development of a new commercial building or commercial portion of a mixed-use building shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on general requirements outlined in Section 26.470.080.

**G. New free-market residential units within a multi-family or mixed-use project** The development of new free-market residential units within a multi-family or mixed-use project shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080 above, Section 26.470.080 and the following criteria:

**a.** Affordable housing net livable area shall be provided in an amount equal to at least thirty percent (30%) of the new free-market residential net livable area. (Note that for new free-market units that are included as part of a project subject to section 26.470.100.D, Demolition or redevelopment of multi-family housing, the requirements in said section shall prevail.)

**b.** Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.

**c.** The mitigation unit(s) must be deed-restricted as a “for sale” Category 2 (or lower) housing unit and transferred to a qualified purchaser according to the provisions of the Aspen/Pitkin County Housing Authority Guidelines.

**I.G. Expansion or new lodge development** The expansion of an existing lodge, the redevelopment of existing lodge which meets the definition of demolition, or the development of a new lodge shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:

**a.** Sixty-five percent (65%) of the employees generated by the lodge, timeshare lodge, exempt timeshare units, and associated commercial development, according to Paragraph 26.470.050.B, Employee generation, shall be mitigated through the provision of affordable housing.
Free-market residential units included in a lodge development and which may be rented to the general public as a lodge unit shall be considered lodge units and mitigated through the provision of affordable housing in accordance with this section. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing.

c. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.C, Affordable housing.

b.d. New or redeveloped Boutique Lodges, or the conversion of lodge, residential or commercial uses to boutique lodge is subject to the mitigation standards for commercial uses as provided for in section 26.470.080.D.1 and 3.

Note: A Residential residential project that creates new lots via Subdivision, pursuant to Chapter 26.480, Subdivision, (excepting lot splits) or new multifamily the replacement of existing multi-family units following Demolition, pursuant to Section 26.470.100.D, shall have the choice of using either subsection 26.470.100.H or 26.470.100.I, as specified below. These development types require the granting of development allotments.

J.H. New Residential development – sixty percent (60%) affordable. The development of a residential project or an addition of units to an existing residential project, in which a minimum of sixty percent (60%) of the additional units and thirty percent (30%) of the project's additional Allowable Floor Area is affordable housing deed-restricted in accordance with the Aspen/Pitkin County Housing Authority Guidelines, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:

a. A minimum of sixty percent (60%) of the total additional units and thirty percent (30%) of the project's additional Allowable Floor Area shall be affordable housing. Multi-site projects are permitted. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing, and shall average Category 4 rates as defined in the Aspen/Pitkin County Housing Authority Guidelines, as amended. An applicant may choose to provide mitigation units at a lower category designation.

b. If the project consists of only one (1) free-market residence, then a minimum of one (1) affordable residence representing a minimum of thirty percent (30%) of the project's total Allowable Floor Area and deed-restricted as a Category 4 "for sale" unit, according to the provisions of the Aspen/Pitkin County Affordable Housing Guidelines, shall qualify.

I.H. New Residential development – seventy percent (70%) affordable. The development of a residential project or an addition to an existing residential project, in which seventy percent (70%) of the project's additional units and seventy percent (70%) of the project's
additional bedrooms are affordable housing deed-restricted in accordance with the Aspen/Pitkin County Housing Authority Guidelines, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the following criteria:

a. Seventy percent (70%) of the total additional units and total additional bedrooms shall be affordable housing. At least forty percent (40%) of the units shall average Category 4 rates as defined in the Aspen/Pitkin County Housing Authority Guidelines. The remaining thirty-percent affordable housing unit requirement may be provided as Resident Occupied (RO) units as defined in the Aspen/Pitkin County Housing Authority Guidelines. Multi-site projects are permitted. Affordable housing units provided shall be approved pursuant to Paragraph 26.470.070.4, Affordable housing. An applicant may choose to provide mitigation units at a lower category designation.

b. If the project consists of one (1) free-market residence, then the provision of one (1) RO residence and one (1) category residence shall be considered meeting the seventy-percent unit standard. If the project consists of two (2) free-market residences, then the provision of two (2) RO residences and two (2) category residences shall qualify.
affordable unit types, economic levels and lifestyles (e.g., singles, seniors, families, etc.).

d. The proposal minimizes impacts on public infrastructure by incorporating innovative, energy-saving techniques. Recommendations from relevant departments shall be considered for this standard. For example, if an applicant proposed an innovative design related to the storm sewer system, a recommendation from the Engineering Department shall be considered.

e. The proposal minimizes construction impacts beyond minimum requirements both during and after construction. A recommendation from the Engineering and Building Departments shall be considered for this standard.

f. The proposal maximizes potential public transit usage and minimizes reliance on the automobile by exceeding the requirements in Section 26.515, Off-Street Parking and Mobility. A recommendation from the Transportation and Engineering Departments shall be considered for this standard.

g. The proposal exceeds minimum requirements of the Efficient Building Code Residential Demolition and Redevelopment Standards or for LEED certification, as applicable. A recommendation from the Building Department and/or Engineering Department shall be considered for this standard.

h. The proposal represents a desirable site plan and an architectural design solution.

i. The proposal promotes opportunities for local businesses through the provision of Alley stores or second-tier commercial space.

2) The project complies with all other provisions of the Land Use Code and has obtained all necessary approvals from the Historic Preservation Commission, the Planning and Zoning Commission and the City Council, as applicable.

3) The Community Development Director shall be directed to reduce the applicable annual development allotments, as provided in Section 26.470.120, in subsequent years as determined appropriate by the City Council.

C. Provision of required affordable housing units outside City limits. The provision of

D.B. affordable housing, as required by this chapter, with units to be located outside the City boundary, upon a recommendation from the Planning and Zoning Commission, shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The off-site housing is within the Aspen Urban Growth Boundary.
2) The proposal furthers affordable housing goals by providing units established as priority through the current Aspen/Pitkin County Housing Authority Guidelines and provides a desirable mix of affordable unit types, economic levels and lifestyles (e.g., singles, seniors and families).

3) The applicant has received all necessary approvals from the governing body with jurisdiction of the off-site parcel.

City Council may accept any percentage of a project's total affordable housing mitigation to be provided through units outside the City's jurisdictional limits, including all or none.

**E. Provision of required affordable housing via a fee-in-lieu payment.** The provision of

**E.C.** Affordable housing in excess of 0.10 Full-Time Equivalents (FTEs) via a fee-in-lieu payment, upon a recommendation from the Planning and Zoning Commission shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The provision of affordable housing on site (on the same site as the project requiring such affordable housing) is impractical given the physical or legal parameters of the development or site or would be inconsistent with the character of the neighborhood in which the project is being developed.

2) The applicant has made a reasonable good-faith effort in pursuit of providing the required affordable housing off site through construction of new dwelling units, the deed restriction of existing dwelling units to affordable housing status, or through the purchase of affordable housing certificates.

3) The applicant has made a reasonable good-faith effort in pursuit of providing the required affordable housing through the purchase and extinguishment of Certificates of Affordable Housing Credit.

4) The proposal furthers affordable housing goals, and the fee-in-lieu payment will result in the near-term production of affordable housing units.

The City Council may accept any percentage of a project's total affordable housing mitigation to be provided through a fee-in-lieu payment, including all or none.

**G. Essential public facilities.** The development of an essential public facility, upon a
H.D. recommendation from the Planning and Zoning Commission, shall be approved, approved with conditions or denied by the City Council based on the following criteria:

1) The Community Development Director has determined the primary use and/or structure to be an essential public facility (see definition). Accessory uses may also be part of an essential public facility project.

2) The Planning and Zoning Commission shall determine the number of employees generated by the essential public facility pursuant to Section 26.470.050.C, Employee generation review.

3) Upon a recommendation from the Community Development Director and the Planning and Zoning Commission, the City Council may assess, waive or partially waive affordable housing mitigation requirements as is deemed appropriate and warranted for the purpose of promoting civic uses and in consideration of broader community goals.

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I.E. recommendation from the Planning and Zoning Commission, the City Council shall approve, approve with conditions or deny development of one (1) or more residences in exchange for the permanent preservation of one (1) or more parcels considered significant for the preservation of open space. The preservation parcel may lie outside the City jurisdiction. The exempted residential units shall be deducted from the respective annual development allotment established pursuant to Section 26.470.040.B. The exempted residential units shall provide affordable housing mitigation, pursuant to the applicable requirements of Section 26.470.100.E. This exemption shall only apply to the specific residences approved through this provision. Other residences within a project not specifically exempted through this provision shall require growth management approvals pursuant to this Chapter. The criteria for determining the significance of a preservation parcel and the associated development rights to be granted may include:

1) The strategic nature of the preservation parcel to facilitate park, trails or open space objectives of the City. This shall include a recommendation from the City of Aspen Open Space Acquisition Board.

2) Identification of the preservation parcel as desirable for preservation in any adopted master plans of the City or following a recommendation from the Parks and Open Space Department.

3) Proximity and/or visibility of the preservation parcel to the City.
4) The development rights of the preservation parcel, including the allowed uses and intensities and impacts associated with those uses if developed to the maximum.

5) The proposed location of the parcel being granted growth management approvals and the compatibility of the resulting uses and intensities of development with the surrounding neighborhood, including the impacts from the specified method of providing affordable housing mitigation. The new residences shall be restricted to the underlying zoning restrictions of the property on which they lie unless additional restrictions are necessary in order to meet this criterion.

6) The preservation parcel shall be encumbered with a legal instrument, acceptable to the City Attorney, which sterilizes the parcel from further development in perpetuity.

F. Reduction in lodge units. The reduction of units in an existing or approved Lodge or Boutique Lodge shall be reviewed pursuant to the standards listed below. Review shall be by City Council pursuant to Section 26.470.060(C) Step Two. Properties ceasing all lodging operations shall not be subject to this review. Physical changes to the property may be required for compliance with zoning limitations.

a. The project shall comply with the review standards outlined in Section 26.425.035, Conditional Use – Standards for Boutique Lodge Uses – but shall not be subject to a Conditional Use review unless required by the underlying zone district or overlay zone district.

b. The proposed use meets the definition of Boutique Lodge or Lodge in section 26.104.110, as applicable.

c. The proposed reduction will likely result in a product that meets customer demand. The lodge may provide documentation to indicate their targeted consumer’s lodging expectations.

d. The proposed reduction will not likely result in the property being used as a private residence. The city may request assurances that the lodge is not being converted to a private residence through a development agreement, or the like.

(Ord. No. 12, 2019, §11, §12)

26.470.120. Yearly Growth management accounting procedures.

A. General. The Community Development Director shall maintain an ongoing account of available, requested and approved growth management allocations for all land uses identified in Table 1 of Section 26.470.020. Allotments shall be considered allocated upon issuance of a development order for the project. Unless specifically not deducted from the annual development allotment, all units of growth shall be included in the accounting. Approved affordable housing units shall be counted regardless of the unit being provided as mitigation or otherwise.

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B. Yearly Allotment Carry-Forward Procedures. At the conclusion of each growth management year, the Community Development Director shall prepare a summary of growth allocations. The City Council, at its first regular meeting of the growth management year, shall review the prior year's growth summary, consider a recommendation from the Community Development Director, and shall, via adoption of a resolution, establish the number of unused and unclaimed allotments to be carried forward and added to the annual allotment. A public hearing is not required and this action may be completed as part of City Council’s consent calendar.

The City Council may carry forward any portion of the previous year's unused allotment, including all or none. The City Council shall consider the following criteria in determining the allotments to be carried forward:

1) The community's growth rate over the preceding five-year period.
2) The ability of the community to absorb the growth that could result from a proposed development utilizing accumulated allotments, including issues of scale, infrastructure capacity, construction impacts and community character.
3) The expected impact from approved developments that have obtained allotments, but that have not yet been built.

There is no limit, other than that implemented by the City Council, on the amount of potential growth that may be carried forward to the next year.

Any allotments awarded to a project which does not proceed and which are considered void shall constitute unused allotments and may be considered for allotment roll-over by the City Council for the year from which they were assigned. If a project decides not to proceed with the development after Council’s decision on roll-over allotments for that year, then those allotments shall be considered expired and no longer available. Allotments shall be considered vacated by a property owner upon written notification from the property owner or upon expiration of the development right pursuant to Section 26.470.040.D, Expiration of growth management allotments.

26.470.130. Application contents. Applications for growth management shall include the following:
1) The general application information required in Common development review procedures, Chapter 26.304.
2) A site-improvement survey meeting the requirements of Title 29, Engineering Design Standards.
3) A description of the project and the number and type of the requested growth management allotments.
4) A detailed description and site plan of the proposed development, including proposed land uses, densities, natural features, traffic and pedestrian circulation, off-street parking, open space areas, infrastructure improvements, site drainage and any associated off-site improvements.
5) A description of the proposed affordable housing and how it provides adequate mitigation for the project and conforms to the Aspen/Pitkin County Housing Authority Guidelines.

6) A statement specifying the public facilities that will be needed to accommodate the proposed development, proposed infrastructure improvements and the specific assurances that will be made to ensure that the public facilities will be available to accommodate the proposed development.

7) A written response to each of the review criteria for the particular review requested.

8) Copies of required approvals from the Planning and Zoning Commission, Historic Preservation Commission and the City Council, as necessary.


In reconstruction scenarios, growth management allotments and any other reconstruction rights that this Code establishes, may continue, subject to the following limitations.

A. An applicant may propose to demolish and then delay the reconstruction of existing development for a period not to exceed one (1) year. To comply with this limitation and maintain the reconstruction right, an applicant must submit a complete building permit application for reconstruction on or before the one-year anniversary of the issuance date of the demolition permit. The City Council may extend this deadline upon demonstration of good cause. The continuation of growth management allotments in a reconstruction scenario for single-family and duplex development are not subject to this time limitation.

B. Single-family and duplex development receive no credit for existing Mitigation Floor Area for the purposes of determining affordable housing mitigation in redevelopment scenarios that meet the definition of Demolition – per 26.580. The exception to this is when a single-family or duplex is demolished by an act of nature or through any manner not purposefully accomplished by the owner.

C. Applicants shall verify existing conditions prior to demolition with the City Zoning Officer in order to document any reconstruction rights. An applicant’s failure to accurately document existing conditions prior to demolition and verify reconstruction rights with the City Zoning-Officer may result in a loss of some or all of the reconstruction rights.

D. Reconstructed buildings shall comply with applicable requirements of the Land Use Code, including but not limited to Chapter 26.312, Nonconformities, and Chapter 26.710, Zone Districts.

E. Any reconstruction rights shall be limited to reconstruction on the same parcel or on an adjacent parcel under the same ownership.
F. Residential redevelopment credits may be converted to lodge redevelopment credits by right. The conversion rate shall be three (3) lodge units per each one (1) residential unit. This is a one-way conversion, and lodge credits may not be converted to residential credits.

26.470.150. Amendment of a growth management development order.
A. Insustantial amendment. An insubstantial amendment to an approved growth management development order may be authorized by the Community Development Director if:

1) The change conforms to all other provisions of the Land Use Code and does not exceed approved variations to the residential design standards, require an amendment to the commercial design review approval or such variations or amendments have been approved.

2) The change does not alter the number, size, type or deed restriction of the proposed affordable housing units, subject to compliance with the Aspen/Pitkin County Housing Authority Guidelines.

3) The change is limited to technical or engineering considerations discovered prior to or during actual development that could not reasonably be anticipated during the review process or any other minor change that the Community Development Director finds has no substantial effect on the conditions and representations made during the original project review.

B. Substantial amendment. All other amendments to an approved growth management development order shall be reviewed pursuant to the terms and procedures of this Chapter. Allotments granted shall remain valid and applied to the amended application, provided that the amendment application is submitted prior to the expiration of vested rights. Amendment applications requiring additional allotments or allotments for different uses shall obtain those allotments pursuant to the procedures of this Chapter. Any new allotments shall be deducted from the growth management year in which the amendment is submitted.

(Ord. No. 12, 2019, §13)

A. Appeal of adverse determination by Community Development Director. An appeal made by an applicant aggrieved by a determination made by the Community Development Director on an application for administrative review shall be to the Planning and Zoning Commission. The appeal procedures set forth at Chapter 26.316 shall apply. The Planning and Zoning Commission may reverse, affirm or modify the decision or determination of the Community Development Director based upon the application submitted to the Community Development Director and the record established by the Director's review. The decision of the Planning and Zoning Commission shall constitute the final administrative action on the matter.
B. **Appeal of adverse determination by Planning and Zoning Commission.** An appeal made by an applicant aggrieved by a determination made by the Planning and Zoning Commission on an application for Planning and Zoning Commission review shall be to the City Council. The appeal procedures set forth at Chapter 26.316 shall apply. The City Council may reverse, affirm or modify the decision or determination of the Planning and Zoning Commission based upon the application submitted to the Planning and Zoning Commission and the record established by the Commission's review. The decision of the City Council shall constitute the final administrative action on the matter.

C. **Insufficient development allotments.** Any property owner within the City who is prevented from developing a property because that year's development allotments have been entirely allocated may appeal to the City Council for development approval. An application requesting allotments must first be denied due to lack of necessary allotments. The appeal procedures set forth at Chapter 26.316 shall apply. The City Council may take any such action determined necessary, including but not limited to making a one-time increase of the annual development allotment sufficient to accommodate the application.


Section 8:
Land Use Code Sections 26.540.040; 26.540.050; 26.540.060; 26.540.070; and 26.540.080. Certificates of Affordable Housing Credits shall be rescinded and readopted as follows:

**Chapter 26.540**

**CERTIFICATES OF AFFORDABLE HOUSING CREDIT**

**26.540.040 Authority**
The Community Development Director, in accordance with the procedures, standards, and limitations of this Chapter and of Chapter 26.304, Common Development Procedures, shall approve, approve with conditions, or deny an application for the establishment of a Certificate of Affordable Housing Credit for projects that have been previously approved, or are being reviewed concurrently with 26.470.090.C. The Planning and Zoning Commission (or Historic Preservation Commission) shall approve, approve with conditions, or deny an application being reviewed concurrently with 26.470.100.C.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §)

**26.540.050 Application**
All applications shall include the information required under Chapter 26.304, Common Development Review Procedures. In addition, all applications must also include the following information.

1. The net livable square footage of each unit and proposed number of bedrooms.

2. If applicable, the conditions under which reductions from net minimum livable square footage requirements are requested according to Aspen Pitkin County Housing Authority Guidelines and a copy of the recommendation from APCHA related to the units.

3. Proposed Category designation for each unit.
4. Proposed Category Designation of sale or rental restriction for each unit. This should include and conditions that APCHA will require related to either the sale and/or rental of the units.

5. Proposed employees housed by the affordable housing units in increments of no less than one-one-hundredth (.01) according to Section 26.470.050.D (Table 4, FTEs Housed).

6. a. For projects approved that include affordable housing units within a designated structure, provide a calculation for the Credits generated within the designated structure that includes a multiplier of 1.2 x the employees housed per paragraph 5, immediately above. This multiplier recognizes the additional costs related to preservation efforts of designated structures. The multiplier does not apply to units/Credits established in non-historic structures in the same project.

7. b. For projects that are converting (without demolition) existing free-market (single family, duplex, or multi-family) units into Category, deed-restricted units for the purpose of establishing affordable housing credits, the application shall additionally contain the following:

   a. Recommendation from APCHA that identifies the development standards for a project or unit being accepted into a deed restriction by APCHA. The application should specifically reference APCHA’s evaluation of the property and any necessary improvements to the property necessary to meet APCHA requirements. Eventual issuance of credits will be conditioned on fulfilling the identified development requirements.

   b. A precise evaluation, conducted by an architect or other qualified party that identifies the existing net livable area of the unit is required. If a unit is below APCHA’s minimum net livable area based on the number of bedrooms (as established by APHCA’s Guidelines), a 400 square feet per FTE calculation will be utilized instead of the bedroom count, in determining the number of Credits that will be generated by the project.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 11-2021, §2)

26.540.060 Procedures for establishing an affordable housing credit

A development application to establish a certificate of Affordable Housing Credit shall be reviewed pursuant to the Common Development Review Procedures set forth at Chapter 26.304, and the following procedures and standards.

A. Administrative Review by the Community Development Director for projects that have received previous GMQS approval for the establishment of affordable housing, or in a combined review with projects that are being reviewed administratively under 26.470.090.CD.

1. Purpose: To determine if the application meets the standards for authorizing establishment of a Certificate of Affordable Housing Credit

2. Process: The Community Development Director shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director.
3. **Standards of review:** 26.540.070

4. **Form of decision:** The Community Development Director decision shall be documented in a recorded Notice of Approval. The Notice of Approval may include a description or diagram of the affordable housing and any necessary conditions of approval.

5. **Notice requirements:** The requirements of 26.304.080 shall apply.

### B. Planning and Zoning Commission (or Historic Preservation Commission) review for projects that are being reviewed under 26.470.100.C

1. **Purpose:** To determine if the application meets the standards for authorizing establishment of a Certificate of Affordable Housing Credit.

2. **Process:** The Planning and Zoning Commission shall approve, approve with conditions, or deny the application after considering the recommendation of the Community Development Director.

3. **Standards of review:** 26.540.070

4. **Form of decision:** Planning and Zoning Commission decision shall be by resolution. The resolution may include a description or diagram of the affordable housing.

5. **Notice requirements:** The requirements of 26.304.080 shall apply. No public hearing notice is required.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1)

**26.540.070 Review criteria for establishing an affordable housing credit**

An Affordable Housing Credit may be established by the Community Development Director or Planning and Zoning Commission if all of the following criteria are met. The proposed units do not need to be constructed prior to this review.

**A.** The proposed affordable housing unit(s) comply with the review standards of Section 26.470.080.D.7.a-g.

**B.** The affordable housing unit(s) are not an obligation of a Development Order and are not otherwise required by this Title to mitigate the impacts of development.

(Ord. No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 11-2021, §3)

**26.540.80 Procedure for issuing a certificate of affordable housing credit**

A. **The Community Development Director Notice of Approval or Planning and Zoning Commission Resolution in approving the establishment of Affordable Housing Credits for a project shall identify one of two possible paths for the eventual issuance of established credits:**

1. Upon completion of the project and the presentation of a Certificate of Occupancy and APCHA deed restriction for the completed affordable units, 100% of the approved Certificates shall be issued in a form prescribed by the Community Development Director; or,
2. Upon presentation of a performance bond, letter of credit, or other financial instrument acceptable to the City Attorney in guaranteeing the eventual completion of the project, a project developer will receive phased issuance of Affordable Housing Credits per the following schedule:

- 30% of approved Credits at completion of foundation inspection
- 30% of approved Credits at completion of framing / roofing inspection
- 40% of approved Credits at presentation of Certificate of Occupancy and the APCHA deed restriction

3. The bond, letter of credit, or other financial instrument shall be presented and reviewed with the submission of the building permit and will be for an amount of 100% of the total project valuation.

4. Approval of phased issuance of Affordable Housing Credits must be included in the Notice of Approval or Planning and Zoning Commission Resolution. No phased issuance shall occur until the City Attorney has reviewed and approved the provided financial instrument.

5. If phased issuance is approved by Notice of Approval or Resolution and the project developer determines ultimately not to pursue the phased issuance, Credits will be issued per Paragraph 1 at the time of the completed project.

B. Upon successful completion of the requirements of Paragraph 1 or 2 above, the issued Certificate of Affordable Housing Credit shall include the following information:

1. A number of the Certificate in chronological order of their issuance.
2. Parcel identification number, legal address and the street address of the affordable housing.
3. The Category Designation and number of employees housed by the affordable housing units, according to Section 26.470.050.D – Employees Housed; in increments of no less than one-one-hundredths (0.01).

(Order No. 6-2010, §5; Ord. No. 32-2012, §1; Ord. No. 34-2015, §3; Ord. No. 11-2021, §4)

Section 9:

**MISCELLANEOUS SUPPLEMENTAL REGULATIONS**

26.575.020 Calculations and Measurements
D. Measuring Floor Area. In measuring Floor Areas (Inclusive of Gross, Allowable, Mitigation, and Floor Area Ratio (FAR), the following applies:

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1. **General.** Floor area shall be attributed to the lot or parcel upon which it is developed. In measuring a building for the purposes of calculating Floor Areas, there shall be included all areas within the surrounding exterior walls of the building. When measuring from the exterior walls, the measurement shall be taken from the exterior face of framing, exterior face of structural block, exterior face of straw bale, or similar exterior surface of the nominal structure excluding sheathing, vapor barrier, weatherproofing membrane, exterior-mounted insulation systems, and excluding all exterior veneer and surface treatments such as stone, stucco, bricks, shingles, clapboards or other similar exterior veneer treatments. (Also, see setbacks.)

**Figure 2: Measuring to Face of Framing**

Note: In measuring Floor Area for the purposes of calculating employee generation and affordable housing mitigation for single-family, duplex, and multi-family development, a distinct calculation is made for Mitigation Floor Area. Please refer to Section 26.090575.020.D.2 below to determine which Floor Area exclusions shall be deducted from the Gross Floor area to determine the Mitigation Area total.
Measuring Allowable Floor Area shall include the following exclusions and exemptions included in Sections 26.575.020.D.3 - 26.575.020.D.15.

2. **Floor Area Definitions and Purpose.**
   
a. **Floor area.** A general term used to describe the sum total of the gross horizontal areas of each story of the building measured from the exterior walls of the building. Floor Area is distinct from the specific definitions below, but may include Gross Floor Area, Mitigation Floor Area, Allowable Floor Area — see, See specific definitions of each type below for additional clarity. Also see, Supplementary Regulations — Section 26.575.020, Calculations and measurements.

   i. **Floor Area, Gross.** Gross floor area is the total horizontal area of all floors in a building, and of all floors in any accessory structure on the same lot, measured from the exterior face framing of the exterior walls (See Section 26.575.020.D), or the centerline of a common wall separating two buildings, but excluding unenclosed balconies. This floor area measurement is the total floor area in which Mitigation Floor area and Allowable floor area exclusions are deducted from as established in Section 26.575.020.D. None of the Floor Area Exemptions in Section 26.575.020.D are considered in this calculation.

   Gross Floor Area should be calculated and documented in any land use or building permit application.

   ii. **Floor Area, Allowable.** – The total amount of floor area allowed on a property based on the limitations and allowances in the applicable zone district in Title 700 and calculated pursuant to Section 26.575.020.D, Calculations and Measurements. All exemptions and methodology outlined in Sections 26.575.020.D.3-16 apply to this calculation.

<table>
<thead>
<tr>
<th>Sections Applicable to the Calculation of Allowable Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vertical Circulation</td>
</tr>
<tr>
<td>Attic and Crawl Spaces</td>
</tr>
<tr>
<td>Decks, Balconies, Loggias, Gazeboes, Trellis, Exterior Stairways, and non Street-facing porches</td>
</tr>
<tr>
<td>Front Porches</td>
</tr>
<tr>
<td>Patios</td>
</tr>
<tr>
<td>Garages and carports</td>
</tr>
<tr>
<td>Subgrade areas</td>
</tr>
</tbody>
</table>

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iii. **Floor Area, Mitigation** – The Gross Floor Area of a structure minus exclusions included in Section 26.575.020.D. This floor area measurement is used to assess required affordable housing mitigation for a given project. For the determination of Mitigation Floor Area, a number of the calculation methodologies listed in subsections 26.575.020.D.3 – 16, below, are not taken. The following table lists the code sections that are not applied to the calculation of Mitigation Floor Area. These areas are counted in their entirety in the Mitigation Floor Area.

<table>
<thead>
<tr>
<th>Specific Building Elements</th>
<th>Sections Applicable Does the section apply to the Calculation of Mitigation Floor Area?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vertical Circulation</td>
<td>NO*</td>
</tr>
<tr>
<td>Attic and Crawl Spaces</td>
<td>YES</td>
</tr>
<tr>
<td>Decks, Balconies, Loggias, Gazebos, Trellis, Exterior Stairways, and non-Street-facing porches</td>
<td>YES</td>
</tr>
<tr>
<td>Front Porches</td>
<td>YES</td>
</tr>
<tr>
<td>Patios</td>
<td>YES</td>
</tr>
</tbody>
</table>

Garages and carports (26.575.020.D.8) NO: the exemption is not taken and the entire area is included in the calculation

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iv. **Floor Area, Non-unit space.** The area, considering all inclusions and exclusions as calculated herein, within a lodge, hotel or mixed use building that is commonly shared. (Also see Section 26.575.020.D.14 – Calculations and Measurements) Section 26.575.020.D.15.

b. **Floor area ratio (FAR).** The total floor area of all structures on a lot divided by the lot area.

3. **Vertical circulation.** When calculating vertical circulation, the circulation element shall be counted as follows:

a) For stairs and elevators, the area of the feature shall be projected down and counted on the lower of the two levels connected by the element and not counted as Floor Area on the top-most interior floor served by the element.

b) When a stairway or elevator connects multiple levels, the area of the feature shall be counted on all levels as if it were a solid floor except that the area of the feature shall not be counted as Floor Area on the top-most interior level served by the element.

c) Mechanical and overrun areas above the top-most stop of an elevator shall not be counted as Floor Area. Areas below the lowest stop of an elevator shall not be counted as Floor Area.
4. **Attic Space and Crawl Space.** Unfinished and uninhabitable space between the ceiling joists and roof rafters of a structure or between the ground and floor framing which is accessible only as a matter of necessity is exempt from the calculation of Floor Area as described below. Drop ceilings are not included in the height measurement for crawl spaces.

   a. Crawl spaces that meet the following are exempt from Floor Area calculations:
      i. 6 feet or less in height measured between the hard floor structure and floor framing; and
      ii. Accessible only through an interior floor hatch, exterior access panel, or similar feature; and
      iii. Are the minimum height and size reasonably necessary for the mechanical equipment.

       1. Stacked crawl spaces do not qualify for the Floor Area exemption. Crawl spaces greater than 6 feet in height count toward Floor Area in accordance with Section 26.575.020.D. Subgrade areas.

      2. Attic space that is conveniently accessible and is either habitable or can be made habitable shall be counted in the calculation of Floor Area.

      3. Areas of an attic level with thirty (30) vertical inches or less between the finished floor level and the finished ceiling shall be exempt, regardless of how that space is accessed or used.

   b. Crawl space that is six (6) feet in height that is accessible only through an interior hatch counts.

   b. c. An attic area accessible only through an interior pull-down access ladder is exempt.

4. If any portion of the attic or crawl space of a structure is to be counted, then the entire room shall be included in the calculation of Floor Area.

5. Examples of attic and crawl spaces that do and do not count toward Floor Area:

   a. An attic area created above a “hung” or “false” ceiling is exempt.

   b. A crawl space that is six (6) feet in height that is accessible only through an interior hatch counts.

   b. c. An attic area accessible only through an interior pull-down access ladder is exempt.
c.d. An unfinished attic space or an unfinished crawl space over 4 feet in height which has convenient access is counted.

d.e. A crawl space that is 6 feet in height, is accessible only through an interior hatch and is a reasonable size to accommodate the mechanical equipment is exempt.

5. Decks, Balconies, Loggias, Gazebos, Trellis, Exterior Stairways, and non-Street-facing porches.

   a) The calculation of the Floor Area of a building or a portion thereof shall not include decks, balconies, exterior stairways, non-Street facing porches, gazebos and similar features, unless the area of these features is greater than fifteen percent (15%) of the allowable floor area for the property and the use and density proposed, or as otherwise exempted by this Section.

   b) If the area of these features exceeds fifteen percent (15%) of the property’s allowable Floor Area for that use and density proposed only the areas in excess of the fifteen percent (15%) shall be attributed towards the allowable Floor Area for the property. The allowable Floor Area for the purpose of this calculation refers to the Floor Area calculation based on the Net Lot Area, as defined in this chapter or as prescribed by a site specific approval, with the following exceptions: Floor Area bonus, or established or extinguished Transferrable Development Right certificates are not included.

   c) Decks, balconies, exterior stairways, trellis, and similar features of a mixed use, commercial, or lodge building located within the Commercial Core (CC) Zone District, Mixed Use (MU) Zone District, the Commercial (C-1) Zone District, the Neighborhood Commercial (NC) Zone District, the Lodge (L) Zone District, or the Commercial Lodge (CL) Zone District shall be exempt from Floor Area calculations.

   d) For free-market residential units located within the Mixed Use (MU) Zone District, Commercial Core (CC) Zone District, and Commercial (C-1) Zone District, at-grade patios, decks (other than rooftop decks), balconies, exterior stairways, trellis, and other similar features may only be expanded up to 15% of the total free-market residential floor area. Such free-market units shall not be able to utilize any other exemptions to floor area outlined in Section 26.575.020(D).

   e) The area of the following features count toward deck calculation: railing, permanently fixed seating, permanently fixed grills, and similar permanently fixed features. Permanent planter boxes and green roofs that are a minimum of thirty (30) inches in height above or below the deck surface, measured from the deck surface to the bottom of the planter box or green roof surface, and that are permanently built into the structure of the roof or deck are not included in the deck calculation. Permanent planter boxes and green roofs that do not meet the minimum requirement count toward deck calculation.

   f) Unenclosed areas beneath decks, balconies, and exterior stairways shall be exempt from Floor Area calculations unless that area is used as a carport. (See provisions for garages and carports, Subsection 7.) Enclosed and unconditioned areas beneath porches, gazebos, and decks or balconies when those elements have a finished floor level within thirty (30)
6. Front Porches. Porches on Street-facing façade(s) of a structure developed within thirty (30) inches of the finished ground level shall not be counted towards allowable Floor Area. Otherwise, these elements shall be attributed to Floor Area as a Deck.

7. Patios. Patios developed at or within six (6) inches of finished grade shall not be counted towards Floor Area. These features may be covered by roof overhangs or similar architectural projections of up to four feet, as measured from the face of the building, and remain exempt from Floor Area calculations. When roof overhangs or similar architectural projections exceed four feet, the entire feature counts toward Floor Area. Railing, permanently fixed seating, permanently fixed grills, and similar permanently fixed features located on patios shall count toward deck calculation.

8. Garages and carports. For all multi-family buildings, parcels containing more than two residential units, and residential units located within a mixed-use building, 250 square feet of the garage or carport area shall be excluded from the calculation of floor area per residence on the parcel. All garage and carport area in excess of 250 square feet per residence shall be attributed towards Floor Area and Floor Area Ratio with no exclusion. Garage and carport areas for properties containing no residential units shall be attributed towards Floor Area and Floor Area Ratio with no exclusion.

   In the R-15B Zone District, garage and carport areas shall be excluded from the calculation of Floor Area up to a maximum exemption of five-hundred-square-foot total for the parcel.

   In zone districts other than the R-15B Zone District, properties containing solely a Single-Family, two single-family residences, or a Duplex, the garage and carport area shall be excluded from the calculation of Floor Area as follows:

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Table 26.575.020-2

<table>
<thead>
<tr>
<th>Size of Garage or Carport</th>
<th>Area excluded per primary dwelling unit (not including Accessory Dwelling Units or Carriage Houses)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 0 to 250 square feet</td>
<td>100% of the area</td>
</tr>
<tr>
<td>Next 251 to 500 square feet</td>
<td>50% of the area</td>
</tr>
<tr>
<td>Areas above 500 square feet</td>
<td>No area excluded</td>
</tr>
</tbody>
</table>

For any property abutting an alley or private road entering at the rear or side of the property, the garage or carport area shall only be excluded from floor area calculations as described above if the garage or carport is accessed from said alley or road. If an alley or private road does exist and is not utilized for garage or carport access, the garage or carport area shall be attributed towards Floor Area calculations with no exclusion. If an alley or private road does not abut the property, the garage or carport area shall be excluded from floor area calculations as described above.

9. Subgrade areas. Subgrade or partially subgrade levels of a structure are included in the calculation of Floor Area based on the portion of the level exposed above grade.

- The percentage of the gross area of a partially subgrade level to be counted as Floor Area shall be the surface area of the exterior walls exposed above natural or finished grade, whichever is lower, divided by the total exterior wall area of that level. Subgrade stories with no exposed exterior surface wall area shall be excluded from floor area calculations.

Example: If the walls of a 2,000 square foot level are forty percent (40%) exposed above the lower of natural or finished grade then forty percent (40%) of that level, 800 square feet is counted as Floor Area.
For the purposes of this section, the exterior wall area to be measured shall be the interior wall area projected outward and shall not include exterior wall areas adjacent to foundation or floors of the structure. Floor structure does not include drop ceilings.
When considering multi-level subgrade spaces, adjacent interior spaces shall be considered on the same story if the vertical separation between the ceilings of the spaces is less than 50% of the distance between the floor and ceiling of either space.

**Figure 6: Determining different building levels**

When considering multi-level subgrade spaces, adjacent interior spaces shall be considered on the same story if the vertical separation between the ceilings of the spaces is less than 50% of the distance between the floor and ceiling of either space.
When a partially subgrade space also contains a vaulted ceiling within a pitched roof, the wall area shall include the area within the gable of the roof.

For garages that are part of a subgrade area, the garage exemption is taken from the total gross below-grade area prior to calculating the subgrade exemption. For example, a 2,000 square foot story containing a 350 square foot garage which is 40% above grade, the calculation shall be as follows:

Garage exemption – the first 250 square feet is exempt and the next 100 square feet counts 50% or 50 square feet = 300 square feet of the garage which is exempt.

Subgrade exemption – 2,000 gross square feet minus 300 square feet of exempt garage space = 1,700 gross square feet multiplied by 40% = 680 square feet of that level which counts towards allowable Floor Area.

For subgrade spaces with adjoining crawl spaces exempt pursuant to Section 26.575.020.D.3, a line is drawn to separate the basement space from the crawl space for the purposes of calculating the perimeter and gross area measurements. Exempt crawl space is not included in the perimeter, wall area, and floor area measurements.

Single-family and duplex structures shall contain no more than one floor level below finished grade. A basement with a stepped floor is allowed. The finished floor level shall be no more than 15 feet below finished grade. A crawl space below the basement, compliant with the limitations of Section 26.575.020.D.3, shall be exempt from this depth limitation.
When it is necessary to determine the floor area of an individual unit within a duplex or multi-family building, it shall be calculated from the exterior walls to the centerline of any party walls it shares with other units.

In order to determine the subgrade area of an individual unit in a duplex or multi-family building that applies toward Floor Area calculations, the subgrade gross square footage of an individual unit shall be multiplied by the percentage of exterior walls exposed above grade for the entire structure.

Example:

a. The subgrade exemption for the structure is 40% (exposed wall divided by total wall).

b. Unit A has 500 square feet below grade, measured from exterior wall to the centerline of the party walls it shares with Unit B. Unit B has 900 square feet.

c. 0.40 (entire duplex exposed percentage) x 500 (Unit A subgrade gross square footage) = 200 square feet subgrade floor area that applies toward the total Floor Area for Unit A. 0.40 (entire duplex exposed percentage) x 900 (Unit B subgrade gross square footage) = 360 square feet subgrade floor area that applies toward the Floor Area for Unit B.
10. Accessory Dwelling Units and Carriage Houses. An accessory dwelling unit or carriage house shall be calculated and attributed to the allowable floor area for a parcel with the same inclusions and exclusions for calculating floor area as defined in this Section.

11. Permanently Affordable Accessory Dwelling Units and Carriage Houses. One hundred percent (100%) of the area of an Accessory Dwelling Unit or Carriage House which is detached from the primary residence and deed-restricted as a "for sale" affordable housing unit and transferred to a qualified purchaser in accordance with the Aspen/Pitkin County Housing Authority Guidelines, as amended, shall be excluded from the calculation of floor area, up to a maximum exemption of one thousand two hundred (1,200) square feet per parcel.

In addition, the allowable floor area of a parcel containing such a permanently affordable Accessory Dwelling Unit or Carriage House shall be increased in an amount equal to fifty percent (50%) of the floor area of the Accessory Dwelling Unit or Carriage House, up to a maximum bonus of six hundred (600) square feet per parcel.

12. Sheds, Storage Areas, and similar Accessory Structures. Sheds, storage areas, greenhouses, and similar uninhabitable accessory structures, not within a garage, are exempt from floor area limitations up to a maximum exemption of thirty-two (32) square feet per residence. Storage areas within a garage shall be treated as garage space eligible for the garage exemption only. Accessory structures thirty-six inches or less in height, as measured from finished grade, shall be exempt from Floor Area calculations (also see setback limitations). Accessory structures that

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are both larger than thirty-two square feet per primary residence and more than thirty-six inches in height shall be included in their entirety in the calculation of Floor Area. Properties which do not contain residential units are not eligible for this Floor Area exemption.

13. Historic Sheds and Outbuildings. The Community Development Director may provide a parcel containing an uninhabitable and limited function historic shed, outbuilding, or similar historic artifact with a Floor Area exemption to accommodate the preservation of the historic resource. The shed or outbuilding must be considered a contributing historic resource of the property. Functional outbuildings, such as garages, art studios, home offices, and the like shall not be eligible for an exemption. The Director may consult the Historic Preservation Commission prior to making a determination. The Director may require the property’s potential to receive Floor Area bonuses be reduced to account for the structure. The exemption shall be by issuance of a recordable administrative determination and shall be revocable if the artifact is removed from the property.

14. Wildlife-Resistant Trash and Recycling Enclosures. Wildlife-resistant trash and recycling enclosures located in residential zone districts are exempt from floor area requirements of the zone district regulations if the enclosure is the minimum reasonably necessary to enclose the trash receptacles in both height and footprint, is an unconditioned space not located inside other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant dumpster enclosures located in commercial, mixed-use, or lodging zone districts are not exempt from floor area requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas. Enclosures shall be located adjacent to the alley if an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic Preservation Commission, enclosures shall not abut or be attached to an historic structure. Enclosures may abut other non-historic structures.

10.15. Allocation of Non-Unit Space in a mixed-use building. In order to determine the total floor area of individual uses in a mixed-use building, the floor area for non-unit space, which is common to all uses on the property, shall be allocated on a proportionate basis to the use categories outlined in the subject zone district's FAR schedule. To determine the non-unit space allocation in a building, a calculation of the building's Gross Floor Area is required. The building's Gross Floor Area, minus all non-unit space, shall be divided proportionately amongst the individual use categories in a building. These numbers shall then be calculated as a percent of the Gross Floor Area number.

Garages, including subgrade garages, and carports in mixed use buildings that contain residential units are considered non-unit space.

When a feature is used exclusively by one use, the space shall be attributed to the floor area for that use.

Gross floor area calculation:

For instance, if a building was comprised of the following square footages:
2,000 sq. ft. commercial floor area (including 500 sq. ft. basement)  
+ 4,000 sq. ft. free-market residential floor area  
+ 2,000 sq. ft. affordable housing floor area  
+ 1,000 sq. ft. non unit floor area (1,250 sq. ft. - 250 sq. ft. for exempt garage)  
= 9,000 sq. ft. gross floor area  

Percentage of use category per building floor area:  

Then the total unit floor area in the building, not including non-unit space, would be eight thousand (8,000) square feet floor area (9,000 – 1,000). Using the allocation of non-unit space standard, the uses account for the following percentages of the total unit floor area:  

Commercial floor area = 25% \([(2,000/8,000) \times 100]\)  
Free-market residential floor area = 50% \([(4,000/8,000) \times 100]\)  
Affordable housing floor area = 25% \([(2,000/8,000) \times 100]\)  

Application of use percentages to non-unit floor area:  

A proportionate share of the non-unit floor area shall then be allocated towards each use category. Floor area exemptions that apply to non-unit space, for example a garage or top level of a shared stairway tower, are deducted from the total non-unit floor area before allocating to each use category. Subgrade levels that do not count toward floor area shall not be included in the use category total when calculating floor area. This provision shall apply to all zone districts permitting mixed-use buildings.  

Therefore, the one thousand (1,000) square feet of non-unit space is allocated to the different uses as follows:  

Commercial floor area = 25% x 1,000 sq. ft. = 250 sq. ft.  
Free-market residential floor area = 50% x 1,000 sq. ft. = 500 sq. ft.  
Affordable housing floor area = 25% x 1,000 sq. ft. = 250 sq. ft.  

The floor area for each use is as follows:  

Commercial floor area: 1,500 sq. ft. (2,000 sq. ft. total minus 500 sq. ft. exempt basement) + 250 sq. ft. = 1,750 sq. ft.  
Free market residential floor area: 4,000 sq. ft. + 500 sq. ft. = 4,500 sq. ft.  
Affordable housing floor area: 2,000 sq. ft. + 250 sq. ft. = 2,250 sq. ft.  

Examples:  

1. Circulation features, for example hallways, that are shared (used by multiple uses) are considered non-unit space.  
2. A shared elevator that serves all levels of a mixed use building (even if the top level terminates within a residential unit) is considered non-unit space.
3. Circulation that is specific to a use, for example a private elevator that only serves the residential component (i.e. it does NOT provide access to commercial levels), is allocated to the floor area of the specific use and is not considered non-unit space.

4. A stairway that is interior to a single unit, which for example connects a two level commercial space, counts toward commercial floor area.

16. Airlocks. Permanently installed interior airlock spaces are exempt from the calculation of Floor Area Ratio and allowable Floor Area up to a maximum exemption of 100 square feet per building. This exemption only applies to buildings containing non-residential uses and does not apply to single-family, duplex, or multi-family buildings.

E. Measuring Setbacks.

1. General. Required setbacks shall be unoccupied and unobstructed within an area extending horizontally from the parcel boundary to the setback line and vertically above and below grade, excepting allowed projections as described below.

a. For new construction, and for redevelopment projects following a demolition of a structure for any use type, required setbacks shall be measured perpendicularly from all points of the parcel boundary to the outermost exterior of a structure, including all exterior veneer such as brick, stone, or other exterior treatments, but excluding allowed projections as further described in subsection E.5., below. (See Figure 8.a)
b. For existing single-family, duplex, and multi-family residential structures, that propose energy efficiency or fire protection upgrades on the exterior of the structure, required setbacks shall be measured perpendicular from all points of the parcel boundary to the exterior face of framing of a structure, to a maximum of eight (8) inches of all exterior veneer such as brick, stone or other exterior treatments, including fire proofing, exterior insulation, and any methods of attachment for insulation systems, but excluding allowed projections as further described in subsection E.5, below. In any instance where the addition of exterior improvements results in a setback of five (5) feet or less, the Community Development Director shall evaluate site context to ensure the improvements are appropriate and compliant with building codes. (See Figure 8.b)

![Figure 8.b: Setback Measurement (Existing Structures)](image)

c. For existing single-family, duplex and multi-family residential structures that encroach into the setback and propose energy efficiency of fire protection upgrades on the exterior of the structure, up to a maximum of eight (8") inches of all exterior veneer such as brick, stone or other exterior treatments, including fire proofing, exterior insulation, and any methods of attachment for insulation, may be added to the wall assembly without being considered a non-conformity and triggering compliance with Chapter 26.430 – Non-Conformities. In any instance where the addition of exterior improvements result in a setback of five feet or less, the Community Development Director shall evaluate site context to ensure the improvements are appropriate and compliant with building codes.
2. **Determining Front, Rear, and Side Yards.** The front yard setback shall be measured from the front lot line. The Front Lot Line shall be the parcel boundary closest to or dividing a lot from a Street or street right-of-way. All parcels have a front lot line. There shall not be more than one front lot line.

The rear yard setback shall be measured from the rear lot line. The Rear Lot Line shall be the parcel boundary opposite the front lot line. All parcels have a rear lot line. A parcel shall have only one rear lot line.

Side yard setbacks shall be measured from the side lot lines. Side lot lines shall be those parcel boundaries other than a front or rear lot line. All parcels will have at least one side lot line and may have multiple side lot lines.

For corner parcels, the front lot line shall be the parcel boundary along the Street with the longest block length and the remaining boundary shall be a side lot line.

For corner parcels where the parcel boundary follows a curving Street, the midpoint of the curve shall be used to differentiate the front lot line and the side lot line. In this case, the boundary segment with the shortest Street frontage shall be the front lot line.
Figure 10: Corner lot with curved street

Figure 11: Reverse curve lot

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For reverse curve lots, the curved portion of the lot line shall be considered the front lot line and the two opposing parcel boundaries shall be considered side lot lines.

For all double frontage lots with Streets on opposite sides of the parcel, except for those parcels abutting Main Street, the front lot line shall be the parcel boundary with the greatest length of Street frontage and the opposing lot boundary shall be the rear lot line.

Figure 11: Reverse curve lot

Figure 12: Double frontage lot
For double frontage lots with equal length street frontages, the front lot line shall mirror the
front lot lines of the adjoining lots to the extent practical.

For double frontage lots abutting Main Street, the front lot line shall be the lot line adjoining
Main Street.

The Community Development Director shall resolve any discrepancies or situations where the
foregoing text does not provide definitive clarity by issuance of a recordable administrative
determination.

3. Determining required setbacks adjacent to streets or rights-of-way. When a property does not
extend into an adjacent public or private right-of-way or street easement, the required setback
shall be measured from the lot line.

When a property extends into an adjacent public or private right-of-way or street easement,
the required setback for that portion of the lot shall be measured from the edge of the right-of-
way or street easement closest to the proposed structure.
4. Combined Setbacks. Where zoning provisions require a combined yard setback (either front-rear or side-side), the narrowest point on each yard shall be the basis for measuring the combined setback. A combined yard requirement may not be met by staggering the required yard setbacks.

For example, if a lot requires a combined side-yard setback of thirty (30) feet, with a minimum of ten (10) feet on either side, Figure 14 shows compliance with the requirement—one side yard is ten (10) feet, the other is twenty (20) feet, and each side yard setback is consistent from front to rear.

Given the same example, Figure 15 meets the individual ten (10) feet’ setback requirements, but the combined setback is staggered and is not consistent from front to rear. This example does not meet the combined setback requirement.
5. **Allowed Projections into Setbacks.** Setback areas shall be unobstructed above and below ground except for the following allowed projections:

   a) Above or below ground utilities, including transformers and vaults, below-grade heating or cooling conduit or infrastructure such as a ground-source heat pump system, below-grade dry wells or other at-grade or below-grade drainage infrastructure.

   b) Trees and vegetation.

   c) Artwork, sculpture, seasonal displays.

   d) Flagpoles, mailboxes, address markers.

   e) Foundation footers, soil nails or below-grade tiebacks, and similar improvements necessary for the structural integrity of a building or other structures.

   f) The minimum projection necessary to accommodate exterior mounted utility junctions, meters, cable boxes, vent flues, standpipes, and similar apparatus and including any protective structure as may be required by the utility provider.

   g) Building eaves, bay windows, window sills, and similar architectural projections up to eighteen (18) inches as measured from the setback boundary.

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h) The minimum projection necessary to accommodate light wells and exterior basement stairwells as required by adopted Building or Fire Codes as long as these features are entirely recessed behind the vertical plane established by the portion of the building façade(s) closest to any Street(s).

If any portion of the feature projects into the setback, the entire feature may be no larger than the minimum required.

Features required for adjacent subgrade interior spaces may be combined as long as the combined feature represents the minimum projection into the setback. There is no vertical depth limitation for these features.

This exemption does not apply to Areaways. This exemption does not apply to light wells and exterior basement stairwells which are not required by adopted Building or Fire Codes.

i) The minimum projection necessary to accommodate an exterior-mount fire escape to an existing building, as may be required by adopted Building or Fire Codes.

j) Uncovered porches, landscape terraces, slabs, patios, walks and similar features, which do not exceed six (6) inches vertically above or below the surrounding finished grade for the entire feature.

a) Landscape walls, berms, retaining walls, stairways and similar structures, which do not exceed thirty (30) inches vertically above or below the lower of natural or finished grade. Improvements may be up to thirty (30) inches above and below grade simultaneously, for up to a sixty (60) inch total. Improvements may exceed thirty (30) inches below grade if determined to be necessary for the structural integrity of the improvement. Berms are prohibited in the front yard setback.

l) Drainage swales, stormwater retention areas, bio retention areas, rain collection systems, and similar stormwater retention, filtration or infiltration devices or facilities are permitted in setbacks as long as the finished grade of the top of the improvement does not exceed thirty (30) inches vertically above or below the surrounding finished grade. Stormwater improvements or portions thereof may be buried and exceed thirty (30) inches below grade as long as the finished grade above the facility does not exceed thirty (30) inches vertically above or below the surrounding finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously.

m) Hot tubs, spas, pools, water features, and permanently affixed outdoor grills, furniture, seating areas, and similar permanent structures shall have the following requirements:
   a. Prohibited between any lot line adjacent to a street and any structure; and
   b. Shall be located at least double the minimum setback for a primary structure from any lot line adjacent to a street; and
   c. If visible from the street, these features shall be screened in accordance with Section 26.575.050, Fence Materials, with natural features, or by other means determined appropriate by the Community Development Director; and
   d. If located within a setback not adjacent to a street, these features shall not exceed thirty (30) inches above or below finished grade. These features may be up to thirty (30) inches.
above and below finished grade simultaneously. Improvements may exceed thirty (30) inches below grade if necessary for the structural integrity of the improvement.

b)n) Heating and air conditioning equipment and similar mechanical equipment, but excluding generators, shall have the following requirements:
   a. Prohibited between any lot line adjacent to a street and any structure; and
   b. Shall be located at least double the minimum setback for a primary structure from any lot line adjacent to a street; and
   c. If visible from the street, these features shall be screened in accordance with Section 26.575.050, Fence Materials, with natural features, or by other means determined appropriate by the Community Development Director; and
   d. If located within a setback not adjacent to a street, these features shall not exceed thirty (30) inches above and forty-eight (48) inches below finished grade. These features may be up to thirty (30) inches above and forty-eight (48) inches below finished grade simultaneously.

c)o) The height and placement of energy efficiency or renewable energy production systems and equipment, which are located adjacent to or independent of a building shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. These systems are discouraged between any lot line adjacent to a street and any structure. For energy production systems and equipment located on top of a structure, see sub-section F.4.

d)p) The Community Development Director may approve exceptions to the requirements of m), n), and o) above. The Community Development Director must first determine that the

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visual impact of the exemption is minimal, that no other reasonable option exists, or that there is a significant increase in efficiency gained as a result of flexibility. Approval may be granted during building permit review, or as part of a site-specific development approval.

(e) Fences and hedges less than forty-two (42) inches in height, as measured from finished grade, are permitted in all required yard setbacks. Fences and hedges up to six (6) feet in height, as measured from finished grade, are permitted only in areas entirely recessed behind the vertical plane established by the portion of the building facade which is closest to the Street. This restriction applies on all Street-facing facades of a parcel. (Also see Section 26.575.050 – Supplementary Regulations for limitations on fence materials.)

(f) Driveways not exceeding twenty-four (24) inches above or below finished grade within any setback of a yard facing a Street. Within all other required setbacks, finished grade of a driveway shall not exceed thirty (30) inches above or below finished grade.

(g) Parking may occur in required setbacks if within an established driveway or parking area and the curb cut or vehicular access is from an alleyway, if an alleyway abuts the property, or has otherwise been approved by the City.

(h) Non-permanent features which are not affixed to the ground such as movable patio furniture, outdoor seating or a picnic table, barbeque grills, children’s play equipment, and similar non-permanent features which are not affixed to the ground. This exemption shall not allow storage sheds or containers.

(i) Wildlife-resistant Trash and Recycling enclosures located in residential zone districts shall be prohibited in all yards facing a Street. These facilities may be placed within non-street facing yards if the enclosure is the minimum reasonably necessary in both height and footprint, is an unconditioned space not integrated with other structures on the property, and serves no other purpose such as storage, garage space, or other purposes unrelated to protecting wildlife. Wildlife-resistant trash and recycling enclosures located in commercial, mixed-use, or lodging zone districts are not exempt from setback requirements and shall comply with zone district requirements for Utility/Trash/Recycle areas.
Temporary intermittent placement of trash and recycling containers in or along yards facing a street is allowed. For example, on “trash day.”

Enclosures shall be located adjacent to the alley where an alley borders the property and shall not be located in a public right-of-way. Unless otherwise approved by the Historic Preservation Commission, enclosures shall not abut or be attached to a historic structure. Enclosures may abut other non-historic structures.

For projects that are proposed to be, or are currently 100% Deed Restricted Affordable Housing, Wildlife-resistant trash and recycling enclosures shall be located along the alley, when possible. If no alley exists, the enclosure may be located in a street facing yard if located and designed in a way to minimize visual impact of the enclosure, ensure efficient use of the enclosure, and the minimum size necessary in both height and footprint to meet the requirements of Title 12 of the Municipal Code.

Generators are prohibited between and structure and the street and within any setback. Exceptions may be made by the Community Development Director in accordance with Section 26.575.020.E.5.J.

F. Measuring Building Heights.

1. For properties in the Commercial Core (CC), Commercial (C1), Commercial Lodge (CL), Neighborhood Commercial (NC) and Service Commercial Industrial (SCI) Zone Districts, the height of the building shall be the maximum distance between the ground and the highest point of the roof top, roof ridge, parapet, or top-most portion of the structure. See subsection 3, below, for measurement method.

2. For properties in all other Zone Districts, the height of the building shall be measured according to the pitch of the roof as follows. See subsection 3, below, for measurement method.

   a) Flat roofs or roofs with a pitch of less than 3:12. The height of a building with a roof pitch of less than 3:12 shall be measured from the ground to the top-most portion of the structure.

   b) Roofs with a pitch of 3:12 or less. The height of a building with a roof pitch of 3:12 or less shall be measured from the ground to the top-most portion of the structure.
b) **Roofs with a pitch from 3:12 to 7:12**. The height of a building with a roof pitch from 3:12 to 7:12 shall be measured from the ground to the point of the roof vertically halfway between the eave point and the ridge. There shall be no limit on the height of the ridge.

c) **Roofs with a pitch greater than 7:12**. The height of a building with a roof pitch greater than 7:12 shall be measured from the ground to the point of the roof vertically one-third (⅓) of the distance up from the eave point to the ridge. There shall be no limit on the height of the ridge.

![Figure 19: Measuring height for roofs with pitch from 3:12 to 7:12](image)
Figure 20: Eave Point and Exterior Sheathing of a Roof
For roofs with multiple pitches within one vertical plane, the height of the roof shall be measured by drawing a line within a vertical section between the ridge and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.

d) For barrel-vault roofs, height shall be measured by drawing a line within a vertical section between the top-most point of the roof and the Eave Point(s) and then applying the methodology for the resulting pitch of said line(s) as described above.

e) For “shed” roofs with a single-pitch, the methodology for measuring shall be the same as described above according to the slope of the roof and by using the highest point of the roof as the ridge.

f) For mansard roofs, height shall be measured to the flat roof as described above.

g) Dormers shall be excluded from the calculation of height if the footprint of the dormer is 50% or less of the roof plane on which the dormer is located and the ridge of the dormer is not higher than the ridge of the roof on which it is located. If there are multiple dormers on one roof plane, the aggregate footprint shall be used. Otherwise, dormers shall be included in the measurement of height according to the methods described above.

h) Butterfly roofs shall be measured in accordance with shed roof methodology.

3. Height Measurement Method. In measuring a building for the compliance with height restrictions, the measurement shall be the maximum distance measured vertically from the ground to the specified point of the building located above that point, as further described below:

a. Measuring height along the perimeter of the building. At each location where the exterior perimeter of a building meets the ground, the measurement shall be taken from the lower of natural or finished grade. Building permit plans must depict both natural and finished grades.

b. Measuring height within the footprint of the building. For the purposes of measuring height within the footprint of a building, areas of the building within 15 horizontal feet of the
building’s perimeter shall be measured using the perimeter measurement, as described above. In all other areas, the natural grade of the site shall be projected up to the allowable height and the height of the structure shall be measured using this projected topography.

In instances where the natural grade of a property has been affected by prior development activity, the Community Development Director may accept an estimation of pre-development topography prepared by a registered land surveyor or civil engineer. The Director may require additional historical documentation, technical studies, reports, or other information to verify a pre-development topography.

If necessary, the Community Development Director may require an applicant document natural grade, finished grade, grade being used within the footprint of the building, and other relevant height limitation information that may need to be documented prior to construction.

c. **Measuring to the roof** – The high point of the measurement shall be taken from the surface of a structure’s roof inclusive of the first layer of exterior sheathing or weatherproofing membrane but excluding exterior surface treatments such as shakes, shingles, fire proofing, exterior insulation, a second layer of exterior sheeting, or other veneer treatments or ornamentation.

![Figure 21: Roof Assembly Example](image)

When measuring roofs to a point between the ridge and the eave point, the eave point shall be the point where the plane of a roof intersects the plane of the exterior wall. The roof and wall planes shall be of the nominal structure, excluding all exterior treatments.

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4. **Allowed Exceptions to Height Limitations.**

   a) **Chimneys, Flues, and Similar Venting Apparatus.** Chimneys, flues, vents, and similar venting apparatus may extend no more than ten (10) feet above the height of the building at the point the device connects. For roofs with a pitch of 8:12 or greater, these elements may not extend above the highest ridge of the structure by more than required by adopted building codes or as otherwise approved by the Chief Building Official to accommodate safe venting. To qualify for this exception, the footprint of these features must be the minimum reasonably necessary for its function; the features must be combined to the greatest extent practical. Appurtenances such as hoods, caps, shields, coverings, spark arrestors, and similar functional devices or ornamental do-dads shall be contained within the limitations of this height exception.

   On structures other than a single-family or duplex residential building or an accessory building, all chimneys, flues, vents, and similar venting apparatus should be set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint should be minimized and combined to the greatest extent practicable.

   b) **Communications Equipment.** Antennas, satellite dishes, and similar communications equipment and devices shall comply with the limitations of Section 26.575.130 – Wireless Telecommunication Services Facilities and Equipment.

   c) **Elevator and Stair Enclosures.** On structures other than a single-family or duplex residential building or an accessory building, elevator overrun enclosures and stair enclosures may extend up to five (5) feet above the specified maximum height limit.

   Elevator and stair enclosures may extend up to ten (10) feet above the specified maximum height limit if set back from any Street facing façade of the building a minimum of twenty feet.
(20) feet and the footprint of the elevators or stair enclosures are minimized and combined to the greatest extent practicable.

For single-family and duplex residential buildings and for accessory buildings, elevator and stair enclosures are not allowed a height exception.

d) Rooftop Railings. On any structure other than a single-family or duplex residential building, rooftop railings and similar safety devices permitting rooftop access may extend up to five (5) feet above the height of the building at the point the railing connects. To qualify for this exception, the railing must be the minimum reasonably necessary to provide adequate safety and building code compliance and the railing must be 50% or more transparent. All railings shall be set back from any Street facing façade of the building by an amount equal to the height of the railing.

For single-family and duplex residential buildings, rooftop railings shall not be allowed a height exception.

e) Mechanical Equipment. Heating, ventilation, and air conditioning systems, and similar mechanical equipment or utility apparatus located on top of a building may extend up to six (6) feet above the height of the building at the point the equipment is attached. This allowance is inclusive of any pad the equipment is placed on, as well as any screening. Mechanical equipment shall be screened, combined, and co-located to the greatest extent practicable. On structures other than a single-family or duplex residential building or an accessory building, all mechanical equipment shall be set back from any Street facing façade of the building a minimum of fifteen (15) feet.

f) Energy Efficiency or Renewable Energy Production Systems and Equipment. Energy efficiency systems or renewable energy production systems and equipment including solar panels, wind turbines, or similar systems and the system’s associated equipment which is located on top of a building may extend up to six (6) feet above the height of the building at the point the equipment is attached.

On any structure other than a single-family or duplex residential building or an accessory building, these systems may extend up to ten (10) feet above height of the building at the point the equipment is attached if set back from any Street facing façade of the building a minimum of twenty (20) feet and the footprint of the equipment is minimized and combined to the greatest extent practicable.

The height and placement of energy efficiency or production systems which are not located on top of a building (located independent of a building) shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. (Also see setback requirements for these systems at sub-section E.5.)

g) Church spires, bell towers and like architectural projections on Arts, Cultural and Civic buildings may extend over the height limit as may be approved pursuant to Commercial Design Review.

h) Flag poles may extend over the specified maximum height limit.
i) **Exceptions for buildings on slopes.** For properties with a slope that declines by 10% or greater from the front lot line, the maximum height of a building's front (street-facing) facade may extend horizontally for the first ten (10) feet of the building's depth. For properties located in the geographical area bounded by Durant Street, Main Street, Monarch Street and Original Street and have a maximum elevation change of three (3) feet, the maximum height measurement as determined from the highest point of the lot may extend the entire width or length of the lot. See Figure A, below, where “X” is the measured height.

![Figure A: Measurement on a Slope](image)

j) **Exceptions for lightwells and basement stairwells.** A basement stairwell required by Building Code for egress shall not be counted towards maximum permissible height. On street facing facades the minimum size lightwell entirely recessed behind the vertical plane established by the portion of the building facade(s) closest to any Street(s), and enclosed on all sides to within eighteen (18) inches of the first floor level (e.g., not a walk-out style light well) shall not be counted towards maximum permissible height. On non-street facing facades a lightwell that is no more than one hundred (100) square feet shall not be counted towards maximum permissible height. This exception does not apply to lightwells and stairwells that are located within a setback.

For properties that contain an areaway that counts toward the pedestrian amenity requirement, the qualifying areaway shall not be counted towards maximum permissible height. See Figure B, below, where “X” is the measured heights and “Y” is not counted if the subgrade area counts as pedestrian amenity.

![Figure B: Measurement of heights with subgrade pedestrian amenity](image)
The Historic Preservation Commission is authorized to grant an exception to height for lightwells larger than one hundred (100) square feet on historic landmark properties that contain a historic resource upon a finding that the following conditions are met:

a. Lightwell is not easily visible from the right of way.

b. Approval of the exemption supports the preservation of the historic resource.

k) For commercial, lodge, or mixed-use buildings located in the Commercial Core (CC), Commercial (C-1), or Neighborhood Commercial (NC) zone districts, decorative, non-functional architectural elements such as a parapet, cornice, spire, pediment, are exempted from height measurement up to twenty-four (24) inches only if approved by the Planning and Zoning Commission or Historic Preservation Commission as part of a Commercial Design Review. This exemption shall not be combined with any other height exemptions.

l) Permanent Rooftop Amenities. Permanent rooftop amenities, such as built-in wet bars, built-in barbecue grills, cabinets, sinks, fire pits, pools, hot tubs, etc. shall be permanently installed and shall meet the following height and setback requirements to qualify for a height exemption. This only applies to a mixed use, lodge, or commercial building located in the Commercial Core (CC) Zone District, Mixed Use (MU) Zone District, the Commercial (C-1) Zone District, the Lodge (L) Zone District, the Neighborhood Commercial (NC) Zone District, or the Commercial Lodge (CL) Zone District. Permanent rooftop amenities may extend up to five (5) feet above the height of the building at the point the equipment is attached to the roof. This allowance is inclusive of any pad the equipment is placed on. A trellis with a maximum height of ten (10) feet and a maximum floor area of no more than 5% of the useable deck area is permitted. All permanent rooftop amenities shall be set back from any Street facing façade of the building by a minimum of ten (10) feet.
m) Exceptions for skylight and light tubes A skylight or light tube typical of industry standards and meeting minimum Building Code standards shall not be counted towards maximum permissible height.

H. Measurement of Net Leasable Area and Net Livable Area. The calculation of net leasable area and net livable area shall include all interior space of a building measured from interior wall to interior wall, including interior partitions. Net leasable area and net livable area shall be attributed to the lot or parcel upon which it is developed. Net leasable area includes all interior areas which can be leased to an individual tenant with the exceptions noted below. Net livable area includes those areas of a building that are used or intended to be used for habitation with the exceptions noted below. Garages and carports are exempt from net leasable area and net livable area calculations.

1. Permanently installed interior airlock spaces are exempt from the calculation of net leasable space up to a maximum exemption of 100 square feet. Seasonal airlocks of more than 10 square feet, installed on the exterior of a building, shall be considered net leasable area and shall be subject to all requirements of the Land Use Code, including employee mitigation, prorated according to the portion of the year in which it is installed.

2. Unless specifically exempted through other provisions of this Title, outdoor displays, outdoor vending, and similar commercial activities located outside (not within a building) shall also be included in the calculation of net leasable area. The calculation of such area shall be the maximum footprint of the display or vending apparatus. For vending carts or similar commercial activities requiring an attendant, the calculation shall also include a reasonable amount of space for the attendant. Exterior decks and exterior seating are not included in the calculation of net leasable area. Vending machines, gas pumps, and similar devices without an attendant shall not be considered net leasable area.

The calculation of net leasable area and net livable area shall exclude areas of a building that are integral to the basic physical function of the building. All other areas are attributed to the measurement of net leasable commercial space or net livable area. When calculating interior stairways or elevators, the top most interior level served by the stairway or elevator is exempt from net livable or net leasable area calculations.

Shared areas that count toward net leasable area and net livable area shall be allocated on a proportionate basis of the use category using the percentages that are generated pursuant to Section 26.575.020.D.14 Allocation of non-unit space in a mixed-use building.

Examples:

1. A broom closet of a minimum size to reasonably accommodate the storage of janitorial supplies for the entire building is considered integral to the physical function of the building and does not count toward net leasable area.

2. A shared commercial storage area that is larger than needed for the basic functionality of the building counts toward net leasable area because it is useable by the businesses.
3. A shared stairway and a shared circulation corridor (that access more than one use) are integral to the physical function of the building and do not count in the measurement of net livable area or net leasable area.

4. A stairway that is entirely within one residential unit counts toward the measurement of net livable area.

5. A private elevator that serves more than one residential unit, and does not provide access to other uses, does not count toward the measurement of net livable area.

6. A private elevator that serves only one residential unit, and does not provide access to other uses, counts toward the measurement of net livable area.

7. A shared mechanical room that is larger than the minimum space required to reasonably accommodate the mechanical equipment counts toward the measurement of net livable area or net leasable area as applicable. The area of the mechanical room that is the minimum size required for the mechanical equipment does not count in net livable area or net leasable area.

I. Exceptions for Energy Efficiency. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate the addition of energy production systems or energy efficiency systems or equipment in or on existing buildings when the site is constrained, or it is determined that its recognized flexibility is warranted to improve efficiency of the equipment or structure. The Community Development Director must first determine that the visual impact of the exemption is minimal and that no other reasonable way to implement energy production or efficiency exists, that is more effective and less impactful. Exception for Energy Efficiency may be approved during building permit review, or as part of a site-specific development approval or land use review.

J. Exceptions for Building Code Compliance. The Community Development Director may approve exceptions to the dimensional restrictions of this Section to accommodate improvements required to achieve compliance with building, fire, energy, or accessibility codes in or on existing buildings when no other practical solution exists. The Community Development Director must first determine that the visual impact of the exemption is minimal and that no other reasonable way to implement code compliance exists, that is more effective and less impactful. Exception for Energy Efficiency Building Code Compliance may be approved during building permit review, or as part of a site-specific development approval or land use review.

K. Appeals. An applicant aggrieved by a decision made by the Community Development Director regarding this Calculations and Measurements Section may appeal the decision to the Administrative Hearing Officer, pursuant to Chapter 26.316.

Section 10:
Land Use Code Section 26.580. Demolition is a new section of the code and shall be adopted as follows:

TITLE 26
LAND USE REGULATIONS
PART 500 — SUPPLEMENTARY REGULATIONS

Chapter 26.580   DEMOLITION
Sec. 26.580.010 Purpose
Sec. 26.580.020 Future Amendments
Sec. 26.580.030 Applicability
Sec. 26.580.040 Measurement of Demolition
Sec. 26.580.050 Exemptions
Sec. 26.580.060 Enforcement and Penalties
Sec. 26.580.070 Appeals
Sec. 26.580.080 Adoption of Residential Demolition and Redevelopment Standards

Chapter 26.580
DEMOLITION

26.580.010. – Purpose.

A. The purpose of the Chapter is to describe and define Demolition as it relates to all land use types in the City of Aspen. The definition of Demolition and the application of this definition is impactful to several sections of the Land Use Code including, but not limited to: Non-Conformities (26.312) and the Growth Management Quota System (26.470). While the definitions and processes described below apply to all use types, particular attention is given to the Demolition of Single-Family and Duplex Residential Units.

A-B. The definitions and regulation in this section and the relationship to other sections of the Land Use Code are meant to regulate impactful development activities and to mitigate negative impacts of complex and significant construction projects to protect the health, safety and welfare of the public. These negative impacts include ecological, economic, transportation, and social impacts. Ensuring impactful development activities are adequately mitigated and consistent with Aspen’s small-town character: furthers the City’s Climate goals by improving regulatory responses to natural resource consumption, reduces traffic impacts, encourages a more sustainable diversion of solid waste from the landfill, reduces general construction impacts to the community, and ensures that Aspen continues to be a leader in efficient design practices is a key goal and purpose of this section.

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All future amendments to this Chapter shall be exempt from the requirement of Policy Resolution for code amendments (Section 26.310.020(B)(2)). Future amendments may proceed directly to a First and Second Reading, pursuant to Section 26.310.020(B)(3).


This chapter applies to land use applications and building permit submissions for development within the City limits for projects that meet or exceed the definition of Demolition, unless exempted by Subsection 26.580.050.


A. The City Zoning Officer shall determine if a building is intended to be, or has been Demolished by applying the following process of calculation:

1. Anytime Demolition is proposed the applicant shall calculate the area of the existing surfaces as follows:
   a. The surface area of all existing (prior to commencing development) exterior wall assemblies above finished grade. Not counted in the existing exterior surface area calculations shall be all existing fenestration (doors, windows, skylights, etc.).
   b. The surface area of all existing (prior to commencing development) roof assemblies.

2. The applicant shall calculate the area of existing surfaces that are proposed to be removed and determine the overall percentage that is removed.
   a. The exterior wall surface area and roof surface area, as described above, to be removed.
   b. Wall area or roof area being removed to accommodate new or relocated fenestration shall be counted as exterior surface area being removed.

3. If the percentage removed exceeds 40%, then the development shall be considered Demolition, pursuant to Section 26.104.100.

4. Demolition shall also include the removal of a dwelling unit in a multi-family or mixed-use building, its conversion to nonresidential use, or any action which penetrates demising walls or floors between Multi-Family Housing Units if such action is undertaken to combine the units. See the requirements of Section 26.470.100.D – Demolition or Redevelopment of Multi-Family Housing.

B. Anytime Demolition is proposed, the applicant shall prepare and submit a diagram showing the calculation. The diagram shall depict each exterior wall and roof segment as a flat plane with an area tabulation.
1. According to the prepared diagram and area tabulation, the surface area of all portions of the exterior to be removed shall be divided by the surface area of all portions of the exterior of the existing structure and expressed as a percentage. The Zoning Officer shall use this percentage to determine if the building is to be or has been Demolished according to the definition in Section 26.104.100, Demolition. If portions of the building involuntarily collapse, regardless of the developer's intent, that portion shall be calculated as removed.

2. If portions of the building involuntarily collapse while construction is occurring, regardless of the developer's intent, that portion shall be calculated as removed and included towards Demolition.

3. If additional portions of an area are required to be removed for health and safety reasons (such as mold) after initial work has begun, that portion shall not be included in the calculation of Demolition. An inspection with the Chief Building Official shall be required in order to confirm removal is necessary for health of safety reasons.

C. For the purposes of the calculation of Demolition, the following provisions shall apply:

1. Exterior wall assembly and roof assembly shall constitute the exterior surface of that element including such items as studs, joists, rafters etc.

2. If a portion of a wall or roof stud is to be removed, the associated exterior surface area shall be diagrammed as being removed.

3. If a portion of a wall or roof involuntarily collapses, regardless of the developer's intent, that portion shall be calculated as removed.

4. Recalculation may be necessary during the process of development and the Zoning Officer may require updated calculations as a project progresses.

5. Replacement of fenestration shall not be calculated as wall area to be removed. New, relocated or expanded fenestration shall be counted as wall area to be removed.

6. Only exterior surface area above finished grade shall be used in the determination of demolition. Sub-grade elements and interior wall or structural elements, while potentially necessary for a building's integrity, shall not be counted in the computation of exterior surface area.

7. Replacement of exterior sheeting when the structural components of that area are to remain, does not count toward the calculation of Demolition.

8. It shall be the responsibility of the applicant to accurately understand the structural capabilities of the building prior to undertaking a remodel. Failure to properly understand the structural capacity of elements intended to remain may result in an involuntary collapse of those portions and a requirement to recalculate the extent of...
demolition. Applicant’s intent or unforeseen circumstances shall not affect the calculation of actual physical demolition.

9. Separate Demolition calculations shall be provided for each detached structure on a parcel. For structures with multiple attached units, such as an attached duplex, Demolition calculations shall be for the entire structure, not per unit.

9.10. Additional requirements or restrictions of this Title may be required when Demolition occurs.

D. The calculation of Demolition shall be cumulative for a period of ten (10) years. At any point in a ten (10) year period, a structure on a property exceeds the threshold for Demolition, it shall be subject to the provisions of this Chapter, as amended.

26.580.050. – Exemptions

The Community Development Director may exempt projects, or a portion thereof, from the calculation of Demolition if any of the following circumstances exist. Upon a finding by the Community Development Director that a project qualifies for an exemption, the project may proceed with any other required reviews as determined by this Title or the submission of a building permit:

A. Dangerous Structures. Any building or structure that has been determined to be dangerous, structurally unsafe or otherwise hazardous to human life, and is required to be abated by demolition. This may include structures destroyed or damaged by fire, flood or other natural disaster. The Chief Building Official shall make this determination.

B. The project is a 100% deed restricted affordable housing, or after completion of the project will be 100% deed restricted affordable housing.

C. De Minimus Exception. The Community Development Director may waive any of the requirements of this chapter if documentation satisfactory to the Director is provided to establish that the scope of work is minimal and providing Demolition documentation would be inappropriate or unreasonable.

D. If an existing structure is to be temporarily relocated, on or off-site, and placed back on an existing or reconfigured foundation that action shall not be considered Demolition for the purposes of this chapter.

E. Exception for Necessary Repairs or Life/Safety concerns. If Demolition is triggered not due to remodel or renovation activity but is determined by the Community Development Director to be required for normal maintenance as defined in Title 26 (see definition in section 26.104.100) or to rectify life safety issues, such as replacing a failing roof or mold removal, the square footage impacted by the work shall be exempt from this section. This provision shall not allow an increase to the height, floor area, net livable area of a building beyond what is the minimum necessary required to comply with the Building Code.

F. Exception for the removal of Non-Historic Additions to Designated Historic Structures. If the Historic Preservation Commission has determined that in the development of a structure that is

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designated on Aspen’s list of Historic Landmarks, that non-historic elements of the project shall be removed in returning the historic resource to its original configuration or character – the portion of the project attributed to the non-historic elements shall not be calculated toward the 40% threshold.

Upon a finding by the Community Development Director that a project qualifies for an exemption, the project may proceed with any other required reviews as determined by this Title or the submission of a building permit.

26.580.060. – Enforcement and Penalties

A. The Community Development Director, City Engineer, Construction Mitigation Officer, or their assigned staff shall have responsibility for enforcement of this chapter and are authorized to take any and all other actions reasonable and necessary to enforce this chapter.

B. Violation of any provision of this chapter shall be subject to the provisions and penalties set forth in Section 26.104.040 of the Municipal Code unless otherwise specified.

26.580.070. – Appeals

A. Appeal of adverse determination by Community Development Director. An appeal made by an applicant aggrieved by a determination made by the Community Development Director that a project triggers Demolition and is subject to the requirements of this Chapter shall be to the Planning and Zoning Commission. The appeal procedures set forth at Chapter 26.316 shall apply. The Planning and Zoning Commission may reverse, affirm or modify the decision or determination of the Community Development Director based upon the application submitted to the Community Development Director and the record established by the Director's review. The decision of the Planning and Zoning Commission shall constitute the final administrative action on the matter.

26.580.080. – Adoption of Residential Demolition and Redevelopment Standards for Projects that meet the definition of Demolition.

A. Pursuant to the powers and authority conferred by the Charter of the City, the City Council hereby adopts and incorporates by reference redevelopment standards, hereinafter referred to as the Residential Demolition and Redevelopment Performance Standards, which are incorporated by reference into the City of Aspen Land Use Code. The Residential Demolition and Redevelopment Standards set forth the design parameters to ensure residential redevelopment improves solid waste diversion, increases the energy efficiency of structures, and reduces negative impacts of construction. The Residential Demolition and Redevelopment Standards may be amended, updated, and expanded from time to time by City Council Resolution. The Residential Demolition and Redevelopment Standards shall be available for public inspection on the Community Development Departments web page. Projects that are pursuing a Demolition Allotment as described in Section 26.470.090.C will be reviewed pursuant to these standards.

Section 11:
Land Use Code Section 26.610.020, 26.610.030, 26.610.040, 26.610.080, 26.610.090. From Impact Fees shall be rescinded and readopted as follows:

Chapter 26.610
IMPACT FEES

26.610.020. **Applicability.**
Unless expressly exempted, the Park Development impact fee and the Transportation Demand Management (TDM)/Air Quality impact fee shall be assessed upon all development within the City which contains residential Allowable Floor Area or net leasable commercial space.

(Ord. No. 21-2002 § 33, 2006, §1 (part), 2002; Ord. No. 36-2013, § 17, 2011, §1)

26.610.030. **Exemptions.**
This Chapter does not apply to:

A. Development involving a property listed on the Aspen Inventory of Historic Landmark Sites and Structures. This exemption is solely for an historic structure and its accessory structures. Development on an historic landmark property involving a non-historic or new building shall not be exempt.

B. Alteration, expansion or replacement of a structure which does not create additional Allowable Floor Area or net leasable commercial space.

(Ord. No. 33, 2006, §1; Ord. No. 36-2015 § 5 27, 2011, §1)

26.610.040. **Definitions.**
When used in this Chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Other words and terms shall be defined under the Definition section of this Title:

A. **Allowable Floor Area and Net Leasable Commercial Space** shall be as defined and calculated according the City of Aspen Land Use Code.

B. **Building permit** means any City permit that involves increases in floor area, net leasable square footage and/or changes to land use.

C. **Capital facilities** means land, structures or equipment for purposes of parks and recreation, transportation demand management and air quality. Capital facilities also includes design, engineering, inspection, testing, planning, legal review, land acquisition and all other costs associated with the construction or purchase of land, structures or equipment.

D. **Collection** means the point at which the impact fee/charge is actually paid to the City.

E. **Impact fee** means a monetary exaction imposed by the City pursuant to this Chapter as a condition of or in connection with approval of a development project for the purpose of defraying all or some of the City's cost for capital facilities associated with that development project.
F. **Impose** means to determine that a particular development project is subject to the collection of impact fees as a condition of development approval.

G. **New development or development project** means any project undertaken for the purpose of development, including without limitation a project involving the issuance of a permit for construction, reconstruction or change of use but not a project involving the issuance of a permit to operate or to remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the amount of Allowable Floor Area, amount of net leasable commercial space, density or intensity of use.

H. **Nonresidential development project** means all development other than residential development projects.

I. **Residential development project** means any development, inclusive of hotel development, undertaken to create a new dwelling/lodge unit or add additional Allowable Floor Area to an existing dwelling/lodge unit.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

26.610.080. Credits.

A. A property owner who dedicates land or improvements, agrees to participate in an improvement district or otherwise contributes funds for capital facilities as defined in this Chapter may be eligible for a credit for such contribution against the impact fee paid.

1. The City Council shall determine:
   a) The value of the developer contribution;
   b) Whether the contribution meets capital facilities' needs for which the particular impact fee has been imposed; and
   c) Whether the contribution will substitute or otherwise reduce the need for capital facilities anticipated to be provided with impact fee funds.

   In no event, however, shall the credit exceed the amount of the applicable impact fee.

B. When additional residential Allowable Floor Area, hotel Allowable Floor Area or net leasable commercial space are proposed after the demolition of a dwelling unit, lodge unit, or net leasable space, either individually or in combination, a credit for the existing Allowable Floor Area or net leasable space shall be credited towards the replacement development. A credit may only be allocated towards the development on the same individual lot or an adjacent lot within the same redevelopment, and cannot be assigned towards un-related development on a separate lot.

C. Any application for credit must be submitted on forms provided by the City before development project approval. The application shall contain a declaration under oath of those facts which qualify the property owner for the credit, accompanied by the relevant documentary evidence.

D. Total credits may not exceed the Impact Fee and a developer shall not be reimbursed by the City for new development which is smaller than the previous development.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)
The following impact fees are the result of the "City of Aspen Impact Fee Study and Update of School Lands Dedication" study, which was sponsored by the City of Aspen and completed by BBC Research and Consulting on August 7, 2006. This study is available at the Community Development Department. On September 26, 2011, the Impact Fees were amended by the City of Aspen in order to make Allowable Floor Area the calculation variable instead of bedrooms. RRC Associates assisted with this effort. Impact fees are hereby established as follows:

Table 610.1, Impact Fee Schedule

<table>
<thead>
<tr>
<th>Parks Development Fee</th>
<th>TDM/Air Quality Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential and Hotel</td>
<td>$5.45 per square foot of Floor Area</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>$4.10 per square foot of Net Leasable Commercial Space</td>
</tr>
<tr>
<td>Residential and Hotel</td>
<td>$0.61 per square foot of Floor Area</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>$0.46 per square foot of Net Leasable Commercial Space</td>
</tr>
</tbody>
</table>

Notes:
- An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated as additional Allowable Floor Area of the primary residence.
- The calculation for hotel units shall include only the Allowable Floor Area associated with the individual lodging units. The calculation of Parks Development and TDM/Air Quality fees shall not include non-unit space.

(Ord. No. 33, 2006, §1; Ord. No. 27, 2011, §1)

Section 12:
Land Use Code Sections 26.620.040, 26.620.070, School Land Dedication Fees shall be rescinded and readopted as follows:

Chapter 26.620
SCHOOL LAND DEDICATION

When used in this Chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. Allowable Floor Area shall be defined and calculated according the City of Aspen Land Use Code.

B. Building permit means any City permit that increases residential floor area and/or changes of land use.
C. **Collection** means the point at which land or a cash payment in lieu is actually transferred or paid to the City.

D. **Impose** means to determine that a particular development project is subject to the collection of a land dedication as a condition of development approval.

E. **Land dedication** means a land exaction imposed by the City pursuant to this Chapter as a condition of or in connection with approval of a development project for the purpose of defraying all or some of the Aspen School District's cost for capital facilities associated with that development project.

F. **New development or development project** means any project undertaken for the purpose of development, including without limitation, a project involving the issuance of a permit for construction, reconstruction or change of use but not a project involving the issuance of a permit to operate or to remodel, rehabilitate, reconstruct or improve an existing structure, which does not change the amount of floor area.

G. **Nonresidential development project** means all development other than residential development.

H. **Residential development project** means any development undertaken to create a new dwelling unit or to add additional floor area(s) to an existing dwelling unit, excluding hotel units.

(Ord. No. 33, 2006, §2; Ord. No. 27, 2011, §2)

26.620.070. **Land dedication and cash-in-lieu fees.**

A. The following land dedication is the result of the "City of Aspen Impact Fee Study and Update of School Lands Dedication" study, which was sponsored by the City and completed by BBC Research and Consulting on August 7, 2006. This study is available at the Community Development Department. The land dedication was amended on September 26, 2011 to implement a change that began using Allowable Floor Area as a basis of calculation instead of bedrooms. RRC Associates assisted with the change.

The current land area required per student equals 896 square feet. Table 620.1 provides the student generation rates as follows:

<table>
<thead>
<tr>
<th>Allowable Floor Area (square feet) per dwelling unit</th>
<th>Student Generation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 1,200</td>
<td>.000064 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>1,200 – 2,100</td>
<td>.000404 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>2,100 – 3,500</td>
<td>.000031 students per square foot of Allowable Floor Area.</td>
</tr>
<tr>
<td>Above 3,500</td>
<td>0</td>
</tr>
</tbody>
</table>

Notes:
- The calculation of the School Land Dedication shall be assessed per dwelling unit. For example, duplex dwelling units do not combine their Allowable Floor Area for one calculation.
- An Accessory Dwelling Unit or Carriage House, as defined by and meeting the requirements of this Title, shall be calculated as additional Allowable Floor Area of the primary dwelling it is associated with.
- When redevelopment of a property adds Allowable Floor Area, the difference between the generation rates of the existing Allowable Floor Area and the proposed Allowable Floor Area shall be the basis for determining the number of students generated. No refunds shall be provided if Allowable Floor Area is reduced.
- When Demolition is proposed, the redevelopment shall be credited the Allowable Floor Area from the demolished residential dwelling unit. Credit from a demolished dwelling unit cannot be allocated to more than one replacement dwelling unit or to development on a different lot.

Figure 620.1, School Land Dedication Calculation

\[
\text{896 square feet} - \text{Land Area per Student Standard} \times \text{Total Students Generated} \text{ – Provided in Table 620.1, Student Generation Rates} \times \text{equals} \times \text{Total Square Feet to be Dedicated}
\]

B. Cash payment in lieu. An applicant may make a cash payment in lieu of dedicating land to the City, or may make a cash payment in combination with a land dedication, to comply with the standards of this Chapter. Because of the extraordinary cost of land within the City, the School District and the City agreed to require payment of a cash-in-lieu amount which is less than the full market value of the land area. The formula to determine the amount of cash-in-lieu payment for each residential dwelling unit is as follows:

Figure 620.2, Cash-in-Lieu Formula

\[
\text{Total Square Feet to be Dedicated} \times \text{Per-Square-Foot Value of Land Being Developed (see below for value substantiation)} \times \text{Percentage of Fee to be Charged – 33% (.33)} \times \text{equals} \times \text{Cash-in-Lieu Payment}
\]

Figure 620.3, Cash Payment in Lieu Example
The following example provides a development scenario to display how the fee is calculated. The scenario includes a new 3,200 sq. ft. (Allowable Floor Area) single-family residential home on a 6,000 sq. ft. lot with an actual lot value of $2,400,000. The per square foot lot value is $400.

<table>
<thead>
<tr>
<th>Allowable Floor Area</th>
<th>Students Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,200</td>
<td>0.077</td>
</tr>
<tr>
<td>(first 1,200 sq. ft. x .000064)</td>
<td>0.77</td>
</tr>
<tr>
<td>(next 900 sq. ft. x .000404)</td>
<td>0.364</td>
</tr>
<tr>
<td>(remaining 1,100 sq. ft. x .000031)</td>
<td>0.034</td>
</tr>
</tbody>
</table>

Total Student Generation Rate: 0.475

Land Dedication Calculation

Land Area per Student Standard (sq. ft.) 896

multiplied by

Total Students Generated (from above calculation) 0.475

equals

Total Square Feet to be Dedicated 425.6

When calculating a cash payment in lieu of a land dedication (assuming a total land value of $2,400,000 for a 6,000-square-foot lot containing the dwelling unit), the following calculation would be used to determine the cash payment in lieu:

Market Value of Land per sq. ft. $400 per sq. ft.

multiplied by

Total Square Feet to be Dedicated 425.6

multiplied by

Percentage of Fee to be Charged – 33% 0.33

equals

Cash Payment in Lieu $56,179.20

1. Current market value. _Current market value_ means the value of the land at the time of the cash-in-lieu payment, including site improvements such as streets and utilities, but excluding the value of residential dwelling units and other structures on the property.

2. Substantiation. Market value may be substantiated by a documented purchase price (if an arms-length transaction no more than two [2] years old) or other mutually agreed-upon recognized means. Such means may include information from the Pitkin County Assessor for the specific

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3. Appraisal. In the event the developer and the City fail to agree on market value, such value shall be established by a qualified real estate appraiser acceptable to both parties. The developer shall pay for the appraisal.

C. Mixed Use Development. Properties containing mixed use development shall only pay the School Land Dedication fee-in-lieu for the Allowable Floor Area associated with the residential component of the development. Non-unit space shall not contribute to the payment of School Land Dedication.

(Ord. No. 33, 2006, §2; Ord. No. 27, 2011, §2)

Section 13:

Section 11:

Land Use Code Section 26.710. Zone Districts shall be rescinded and readopted as follows:

Chapter 26.710

LAND USE REGULATIONS

PART 700 — ZONE DISTRICTS

Sections:
26.710.010 General purpose
26.710.020 Zone Districts established
26.710.022 Zoning of lands containing more than one underlying Zone District
26.710.024 Zoning of vacant areas
26.710.030 Official Zone District Map
26.710.040 Medium-Density Residential (R-6)
26.710.050 Moderate-Density Residential (R-15)
26.710.060 Moderate-Density Residential (R-15A)
26.710.070 Moderate-Density Residential (R-15B)
26.710.080 Low-Density Residential (R-30)
26.710.090 Residential Multi-Family (RMF)
26.710.100 Residential Multi-Family-A (RMFA)
26.710.110 Affordable Housing/Planned Development (AH/PD)
26.710.120 High Density Residential (R-3)
26.710.130 Rural Residential (RR)
26.710.140 Commercial Core (CC)
26.710.150 Commercial (C-1)
26.710.160 Service/Commercial/Industrial (S/C/I)
26.710.170 Neighborhood Commercial (NC)
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.710.180</td>
<td>Mixed Use (MU)</td>
</tr>
<tr>
<td>26.710.190</td>
<td>Lodge (L)</td>
</tr>
<tr>
<td>26.710.200</td>
<td>Commercial Lodge (CL)</td>
</tr>
<tr>
<td>26.710.220</td>
<td>Conservation (C)</td>
</tr>
<tr>
<td>26.710.230</td>
<td>Academic (A)</td>
</tr>
<tr>
<td>26.710.240</td>
<td>Park (P)</td>
</tr>
<tr>
<td>26.710.250</td>
<td>Public (PUB)</td>
</tr>
<tr>
<td>26.710.260</td>
<td>Open Space (OS)</td>
</tr>
<tr>
<td>26.710.270</td>
<td>Wildlife Preservation (WP)</td>
</tr>
<tr>
<td>26.710.280</td>
<td>Transportation Overlay (T) Zone District</td>
</tr>
<tr>
<td>26.710.290</td>
<td>Drainage Overlay (D) Zone District</td>
</tr>
<tr>
<td>26.710.300</td>
<td>Golf Course Support Overlay (GCS) Zone District</td>
</tr>
<tr>
<td>26.710.310</td>
<td>Lodge Overlay (LO) Zone District</td>
</tr>
<tr>
<td>26.710.320</td>
<td>Lodge Preservation Overlay (LP) Zone District</td>
</tr>
<tr>
<td>26.710.330</td>
<td>Ski Area Base (SKI)</td>
</tr>
<tr>
<td>26.710.340</td>
<td>Essential Business Overlay</td>
</tr>
</tbody>
</table>
26.710.010 General purpose.
In order to ensure that all development is consistent with the goals and objectives of the Aspen Area Community Plan and this Title, it is necessary and proper to establish a series of Zone Districts to ensure that each permitted and conditional use is compatible with surrounding land uses, is served by adequate public facilities and is consistent with the environmental sensitivity of the City and its surrounding area's natural resources. All development within each Zone District shall be consistent with the purposes stated for that Zone District in this Chapter. Any use which is not specifically listed in this Chapter as a permitted or conditional use in a Zone District shall be considered prohibited, unless otherwise interpreted by the Community Development Director pursuant to Chapter 26.306.

26.710.020 Zone Districts established.
The City is hereby divided in several zones, known and designated as detailed in this Chapter, to serve the purposes stated above and in each Section of this Chapter describing the individual Zone Districts.

26.710.022 Zoning of lands containing more than one underlying Zone District.
Whenever any parcel of land shall contain more than one underlying Zone District, the following rules shall apply:

A. Proposed use not allowed in all Zone Districts. When a parcel of land contains more than one underlying Zone District and the proposed use is not allowed in all of the respective Zone Districts, then:
   a. The use can only be developed on land in which it is a permitted or a conditional use.
   b. The external floor area and density which shall apply to the use shall be calculated based only on the land area of the Zone District in which the use is a permitted or conditional use. The off-street parking requirements and other dimensional requirements which shall apply to the use shall be those of the Zone District in which the use is a permitted or conditional use, but shall be calculated on the basis of the land area and development of the entire parcel.

B. Proposed use allowed in all Zone Districts. When a parcel of land contains more than one underlying Zone District and the proposed use is allowed in all of the respective Zone Districts, then:
   a. The use shall be developed by comparing each dimensional and parking requirement of the respective Zone Districts and applying the more restrictive of each requirement. These requirements shall, however, be calculated based on the land area and development of the entire parcel.
   b. The only exception shall be when the area of the parcel which is designated with the Zone District which permits the higher density constitutes more than seventy-five percent (75%) of the entire land area of the parcel. In this case, the use shall be developed using the dimensional requirements and off-street parking requirements of
the Zone District permitting the higher density, which shall be calculated on the basis of the land area and development of the entire parcel.

26.710.024 Zoning of vacated areas.
Whenever any street, alley or other public way within the City is vacated by the City Council, the land on which the street, alley or public way is located shall become a part of the Zone District of the lands adjoining such street, alley or public way. Those lands shall then become subject to the regulations that apply to that Zone District. In determining land available for development, however, vacated lands shall be excluded from the calculation of allowable floor area, density or required open space.

26.710.030 Official Zone District Map.
A. Establishment of Zone District map. The location and boundaries of the Zone Districts established in this Title shall be set forth on the Official Zone District Map of the City which is incorporated herein by reference into this Title as if fully described and set forth herein. A copy of the official Zone District map shall be located in the office of the Community Development Department at all times for inspection by the general public during regular business hours. The official Zone District map shall be the final authority as to the current zoning of land in the City.

B. Amendment to Zone District map. If pursuant to the terms of this Title, amendments are made to the boundaries of the official Zone District map, such amendments shall be entered on the official Zone District map promptly after amendment.
26.710.040 Medium-Density Residential (R-6).

A. Purpose. The purpose of the Medium-Density Residential (R-6) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Medium-Density Residential (R-6) Zone District are generally limited to the original Aspen Townsite, contain relatively dense settlements of predominantly detached and duplex residences and are within walking distance of the center of the City.

B. Permitted uses. The following uses are permitted as of right in the Medium-Density Residential (R-6) Zone District:

1. Detached residential dwelling.
2. Duplex.
3. Two (2) detached residential dwellings.
4. Triplex or Fourplex, if 100% deed-restricted affordable housing.
5. Existing multi-family housing, if 100% deed-restricted affordable housing.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.

C. Conditional uses. The following uses are permitted as conditional uses in the Medium-Density Residential (R-6) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.
6. For historic landmark properties: bed and breakfast and boardinghouse.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Medium-Density Residential (R-6) Zone District:

1. **Minimum Gross Lot Area (square feet):** six thousand (6,000) square feet. For lots created by Section 26.480.030.A.4060.B, Historic landmark lot split: Three thousand (3,000). For properties that include or are proposed for 100% deed-restricted affordable housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. **Detached residential dwelling:** 4,500. For Historic Landmark Properties: 3,000.
   b. **Duplex:** 4,500. For Historic Landmark Properties: 3,000. For properties subdivided as of April 28, 1975: 4,000. For properties annexed subsequent to January 1, 1989: 3,750.
   c. **100% deed-restricted affordable housing:** No requirement.
   d. **Existing multifamily:** No requirement.
   e. **Bed and breakfast, boardinghouse:** No requirement.

3. **Minimum lot width (feet):** Sixty (60). For lots created by Section 26.480.030.A.4, Historic Landmark Lot Split: Thirty (30). For lots proposed for 100% deed restricted affordable housing: Thirty (30).

4. **Minimum front yard (feet):** Principal buildings: 10. Accessory buildings: 15.

5. **Minimum rear yard (feet):** Principal buildings: 10. For the portion of a principal building used solely as a garage: 5. Accessory buildings: 5.

6. **Minimum side yard:**
The following requirements shall apply on a lot annexed subsequent to January 1, 1989.

<table>
<thead>
<tr>
<th>Gross Lot Area (Square Feet)</th>
<th>Minimum Size for Each Side Yard</th>
<th>Total of Both Side Yards*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—4,500</td>
<td>5 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>4,500—6,000</td>
<td>5 feet</td>
<td>10 feet, plus 1 foot for each additional 300 square feet of Gross Lot Area, to a maximum of 15 feet of total side yard</td>
</tr>
<tr>
<td>6,000—8,000</td>
<td>5 feet</td>
<td>15 feet, plus 1 foot for each additional 200 square feet of Gross Lot Area, to a maximum of 25 feet of total side yard</td>
</tr>
<tr>
<td>8,000—10,000</td>
<td>10 feet</td>
<td>25 feet, plus 1 foot for each additional 200 square feet of Gross Lot Area, to a maximum of 35 feet of total side yard</td>
</tr>
<tr>
<td>10,000+</td>
<td>15 feet</td>
<td>35 feet, plus 1 foot for each additional 400 square feet of Gross Lot Area, to a maximum of 50 feet of total side yard</td>
</tr>
</tbody>
</table>

* Two detached residential dwellings located on one lot shall not be subject to the combined side yard setback requirements, provided that the minimum setback between the two detached dwellings on the lot shall be ten (10) feet.

For purposes of calculating the minimum side yard setback for lots within the Hallam Lake Bluff environmentally sensitive area (ESA), the area below the top of slope shall be subtracted from lot size.

7. **Maximum site coverage:**

<table>
<thead>
<tr>
<th>Gross Lot Area (Square Feet)</th>
<th>Maximum Site Coverage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—5,999</td>
<td>No limitation</td>
</tr>
</tbody>
</table>

City of Aspen Land Use Code
Part 700, R-6 zone
Page 3
<table>
<thead>
<tr>
<th>Gross Lot Area (square feet)</th>
<th>Site Coverage Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>6,000 – 9,000</td>
<td>50%, minus 1% for each additional 300 square feet of Gross Lot Area, to a maximum site coverage of 40%</td>
</tr>
<tr>
<td>9,000 – 12,000</td>
<td>40%, minus 1% for each additional 300 square feet of Gross Lot Area, to a maximum site coverage of 30%</td>
</tr>
<tr>
<td>12,000 – 18,000</td>
<td>30%, minus 1% for each additional 1,200 square feet of Gross Lot Area, to a maximum site coverage of 25%</td>
</tr>
<tr>
<td>18,000 +</td>
<td>25%</td>
</tr>
</tbody>
</table>

8. Maximum height (feet): 25; Existing multi-family that is 100% Deed-Restricted Affordable Housing is limited to its existing height, or 25 feet, whichever is greater.

9. Minimum distance between detached buildings on the lot (feet): 5 feet.

10. Percent of open space required for building site: No requirement.

11. Floor area ratio (applies to conforming and nonconforming lots of record):
   a. Single-Family, Duplex, or Two Detached Dwellings
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—6,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,240 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,600 square feet of floor area</td>
</tr>
<tr>
<td>6,000—9,000</td>
<td>3,240 square feet of floor area, plus 14 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,660 square feet of floor area</td>
<td>3,600 square feet of floor area, plus 16 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>3,660 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,020 square feet of floor area</td>
<td>4,080 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,440 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,020 square feet of floor area, plus 5 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 5,770 square feet of floor area</td>
<td>4,440 square feet of floor area, plus 5 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,190 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>5,770 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
<td>6,190 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
</tr>
</tbody>
</table>

*Net Lot Area is measured to the centerline of the property line.
*Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than nine thousand (9,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

i. Each City of Aspen Historic Transferable Development Right certificate extinguished, pursuant to Section 26.535, Transferable Development Rights, shall allow an additional two hundred and fifty (250) square feet of Floor Area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this Floor Area increase. Non-conforming uses and structures shall not be eligible for this Floor Area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

ii. Non-historic properties with a net lot area of 9,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

iii. Properties within the same subdivision or planned development as a sending site may be specified as eligible for up to two (2) floor area increases per residence pursuant to the subdivision or planned development approval. The properties to be specified as eligible for up to two (2) floor area increases per residence shall be located within the same subdivision or planned development so as to enhance preservation of the historic resource, considering a recommendation from the Historic Preservation Commission, shall not be located adjacent to the sending site and shall be described and depicted in the subdivision or planned development approvals granted by City Council. The total number of floor area increases permitted within the subdivision or planned development shall not exceed an aggregate total of one (1) per non-historic residence within the entire subdivision or planned development.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 11.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded up to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.
26.710.050 Moderate-Density Residential (R-15).

A. Purpose. The purpose of the Moderate-Density Residential (R-15) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Moderate-Density Residential (R-15) Zone District typically consist of additions to the Aspen Townsite and subdivisions on the periphery of the City. Lands within the Townsite which border Aspen Mountain are also included in the Moderate-Density Residential (R-15) Zone District.

B. Permitted uses. The following uses are permitted as of right in the Moderate-Density Residential (R-15) Zone District.

1. Detached residential dwelling.
2. Duplex.
3. Two detached residential dwellings.
4. Triplex or Fourplex, if 100% deed restricted affordable housing. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
5. Existing multi-family housing, if 100% deed restricted affordable housing. Existing multi-family housing that is not 100% deed restricted affordable housing remains a non-conforming use.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of section 26.520.040

C. Conditional uses. The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.
7. For historic landmark properties: bed and breakfast and boardinghouse.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15) Zone District.

1. **Minimum Gross Lot Area (square feet):** fifteen thousand (15,000). For lots created by Section 26.480.030.A.4060.B, Historic landmark lot split: three thousand (3,000). For properties that include or are proposed for 100% **deed-restricted affordable housing**; three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. **Detached residential dwelling:** 15,000. For historic landmark properties: 3,000.
   b. **Duplex:** 7,500. For historic landmark properties: 3,000.
   c. 100% **deed-restricted affordable housing**; triplex, fourplex: No requirement.
   d. 100% **deed-restricted affordable housing**; existing multifamily: No requirement.
   e. **Bed and breakfast, boardinghouse:** No requirement.

3. **Minimum lot width (feet):** Seventy-five (75). For lots created by Section 26.480.030.A.4, Historic landmark lot split: Thirty (30). For lots proposed for 100% **deed-restricted affordable housing**; Thirty: (30)

4. **Minimum front yard setback (feet):**
   a. **Residential dwellings:** twenty-five (25).
   b. **Accessory buildings and all other buildings:** thirty (30).

5. **Minimum side yard setback (feet):** Ten (10).

6. **Minimum rear yard setback (feet):**
   a. **Principal buildings:** 10
   b. **Accessory buildings:** 5

7. **Maximum height (feet):** Twenty-five (25).

8. **Minimum distance between detached buildings on the lot (feet):** Ten (10).

9. **Percent of open space required for building site:** No requirement.

9. **External floor area ratio (applies to conforming and nonconforming lots of record):**
   a. **Single-Family, Duplex or Two Detached Dwellings:**
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

* Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than twenty thousand (20,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:
i. Non-historic properties with a net lot area of 15,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 9.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.060 Moderate-Density Residential (R-15A).

A. **Purpose.** The purpose of the Moderate-Density Residential (R-15A) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Moderate-Density Residential (R-15A) Zone District are similarly situated to those in the Moderate-Density Residential (R-15) Zone District and are lands annexed from Pitkin County from Zone Districts in which duplexes are a prohibited use.

B. **Permitted uses.** The following uses are permitted as of right in the Moderate-Density Residential (R-15A) Zone District:

1. Detached residential dwelling.
2. Duplex, provided fifty percent (50%) of the duplex units are restricted to affordable housing.
3. Two (2) detached residential dwellings.
4. Triplex or Fourplex, if 100% deed restricted affordable housing Deed-Restricted Affordable Housing.
5. Existing multi-family housing, if 100% deed restricted affordable housing Deed-Restricted Affordable Housing. Existing multi-family housing that is not 100% deed restricted affordable housing Deed-Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
6. Home occupations.
7. Accessory buildings and uses.
8. Accessory dwelling units and carriage houses meeting the provisions of section 26.520.
9. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15A) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.
7. For historic landmark properties: bed and breakfast and boardinghouse.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15A) Zone District:

1. **Minimum Gross Lot Area (square feet):** fifteen thousand (15,000). For lots created by Subsection 26.480.030.A.4060.B, Historic landmark lot split: three thousand (3,000). For properties that include or are proposed for 100% deed-restricted affordable housing: three thousand (3,000).

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. **Detached residential dwelling:** 15,000. For historic landmark properties: three thousand (3,000).
   b. **Duplex:** 7,500. For historic landmark properties: 3,000.
   c. **100% deed-restricted affordable housing:** No requirement.
   d. **100% deed-restricted affordable housing:** No requirement.
   e. **Bed and breakfast, boardinghouse:** No requirement.
   f. **100% deed-restricted affordable housing:** No requirement.

3. **Minimum lot width (feet):** seventy-five (75) feet. For lots created by Subsection 26.480.030.A.4, Historic landmark lot split: thirty (30). For lots proposed for 100% deed-restricted affordable housing: Thirty: (30)

4. **Minimum front yard setback (feet):** twenty-five (25).
   b. **Accessory buildings and all other buildings:** twenty-five (25).
   c. **Minimum side yard setback (feet):** ten (10).
   d. **Minimum rear yard setback (feet):** ten (10).
   e. **Maximum height (feet):** twenty-five (25).
   f. **Percent of open space required for building site:** No requirement.

10. **Floor area ratio (applies to conforming and nonconforming lots of record):**
   a. **Single-Family, Duplex or Two Detached Dwellings**
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence*</th>
<th>Allowable Floor Area for Two Detached Dwellings or One Duplex*</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

* Total external floor area for multiple detached residential dwellings on one (1) lot shall not exceed the floor area allowed for one (1) duplex. Total external floor area for multiple detached residential dwellings on a lot less than twenty thousand (20,000) square feet listed on the inventory of historic landmark sites and structures shall not exceed the floor area allowed for one (1) detached residential dwelling.

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No
more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

i. Non-historic properties with a net lot area of 15,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.

b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 10.a. above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: May be expanded to a maximum of 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.070 Moderate-Density Residential (R-15B).

A. Purpose. The purpose of the Moderate-Density Residential (R-15B) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Lands in the Moderate-Density Residential (R-15B) Zone District are similarly situated to those in the Moderate-Density Residential (R-15) and (R-15A) Zone Districts, but are those in which single-family structures are a permitted use and duplexes are prohibited.

B. Permitted uses. The following uses are permitted as of right in the Moderate-Density Residential (R-15B) Zone District:

1. Detached residential dwelling.
2. Home occupations.
3. Accessory buildings and uses.

C. Conditional uses. The following uses are permitted as conditional uses in the Moderate-Density Residential (R-15B) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Agricultural uses.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Moderate-Density Residential (R-15B) Zone District:

1. Minimum Gross Lot Area (square feet): fifteen thousand (15,000).
2. Minimum Net Lot Area per dwelling unit (square feet): fifteen thousand (15,000).
3. Minimum lot width (feet): seventy-five (75).
4. Minimum front yard setback (feet): thirty (30). For properties located between Eastwood Drive and Highway 82 (Lots 6-19, Eastwood Subdivision) and properties located on the northwest portion of Skimming Lane (Lots 8-11, Block 1, Aspen Grove subdivision): ten (10).
5. Minimum side yard setback (feet): five (5).
6. Minimum rear yard setback (feet):
   a. Residential dwellings: ten (10)
   b. Accessory buildings and all other buildings: five (5).
   For properties located between Eastwood Drive and Highway 82 (Lots 6-19, Eastwood Subdivision) and properties located on the northwest portion of Skimming Lane (Lots 8-11, Block 1, Aspen Grove subdivision): thirty (30).
9. Percent of open space required for building site: No requirement.

10. Floor area ratio (applies to conforming and nonconforming lots of record):

<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 1,680 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>1,680 square feet of floor area, plus 20 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 2,880 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>2,880 square feet of floor area plus 5 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 3,180 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>3,180 square feet of floor area, plus 4 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,580 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>4,580 square feet of floor area, plus 1 square foot of floor area for each additional 100 square feet in Net Lot Area.</td>
</tr>
</tbody>
</table>

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. No more than one (1) floor area increase shall be allowed per residence. Properties listed on the inventory of historic sites and structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase.

26.710.080  Low-Density Residential (R-30).

A. **Purpose.** The purpose of the Low-Density Residential (R-30) Zone District is to provide areas for long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Low-Density Residential (R-30) Zone District are typically located along river frontages in outlying areas of the City.

B. **Permitted uses.** The following uses are permitted as of right in the Low-Density Residential (R-30) Zone District:

1. Detached residential dwelling.
2. Duplex.
3. Triplex or Fourplex, if 100% Deed Restricted Affordable Housing.
4. Existing multi-family housing, if 100% Deed Restricted Affordable Housing. Existing multi-family housing that is not 100% Deed Restricted Affordable Housing remains a non-conforming use. New multi-family housing is not permitted, except for triplexes and fourplexes as described in #4 above.
5. Home occupations.
6. Accessory buildings and uses.
7. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
8. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Low-Density Residential (R-30) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Agricultural uses.
4. Recreational uses.
5. Group home.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Low-Density Residential (R-30) Zone District:

1. **Minimum Gross Lot Area (square feet):** thirty thousand (30,000).
2. **Minimum Net Lot Area per dwelling unit (square feet):**
   a. Detached residential dwelling: thirty thousand (30,000).
   b. Duplex: fifteen thousand (15,000).
   c. 100% deed-restricted affordable housing; triplex, fourplex: No requirement.
   d. 100% deed-restricted affordable housing; existing multifamily: No requirement.

3. **Minimum lot width (feet):** one hundred (100). For lots proposed for 100% deed-restricted affordable housing: Thirty (30)

4. **Minimum front yard setback (feet):**
   b. Accessory buildings and all other buildings: thirty (30).

5. **Minimum side yard setback (feet):** ten (10).

6. **Minimum rear yard setback (feet):**
   a. Residential dwellings: fifteen (15).
   b. Accessory buildings: five (5).
   c. All other buildings: thirty (30).

7. **Maximum height (feet):** twenty-five (25).

8. **Minimum distance between principal and accessory buildings (feet):** ten (10).

9. **Percent of open space required for building site:** No requirement.

10. **Floor area ratio (applies to conforming and nonconforming lots of record):**
    a. Single-Family and Duplex:
<table>
<thead>
<tr>
<th>Net Lot Area (Square Feet)</th>
<th>Allowable Floor Area for Single-Family Residence</th>
<th>Allowable Floor Area for Duplex</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—3,000</td>
<td>80 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,400 square feet of floor area</td>
<td>90 square feet of floor area for each 100 square feet in Net Lot Area, up to a maximum of 2,700 square feet of floor area</td>
</tr>
<tr>
<td>3,000—9,000</td>
<td>2,400 square feet of floor area, plus 28 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,080 square feet of floor area</td>
<td>2,700 square feet of floor area, plus 30 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
</tr>
<tr>
<td>9,000—15,000</td>
<td>4,080 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,500 square feet of floor area</td>
<td>4,500 square feet of floor area, plus 7 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 4,920 square feet of floor area</td>
</tr>
<tr>
<td>15,000—50,000</td>
<td>4,500 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 6,600 square feet of floor area</td>
<td>4,920 square feet of floor area, plus 6 square feet of floor area for each additional 100 square feet in Net Lot Area, up to a maximum of 7,020 square feet of floor area</td>
</tr>
<tr>
<td>50,000+</td>
<td>6,600 square feet of floor area, plus 2 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
<td>7,020 square feet of floor area, plus 3 square feet of floor area for each additional 100 square feet in Net Lot Area</td>
</tr>
</tbody>
</table>

Each City historic transferable development right certificate extinguished, pursuant to Chapter 26.535, Transferable development rights, shall allow an additional two hundred and fifty (250) square feet of floor area. Each residence on the parcel, excluding accessory dwelling units and carriage houses, shall be eligible for one (1) floor area increase in exchange for the extinguishment of one (1) historic TDR. Properties listed on the Inventory of Historic Landmark Sites and Structures shall not be eligible for this floor area increase. Nonconforming uses and structures shall not be eligible for this floor area increase. No more than one (1) floor area increase shall be allowed per residence, with the following exceptions:

i. Non-historic properties with a net lot area of 30,000 sf or larger that contain only a single family residence are eligible to extinguish up to two (2) historic TDRs.
b. 100% Deed-Restricted Affordable Housing; Triplex or Fourplex: Allowable Floor Area shall be consistent with the Allowable Floor Area for a Duplex or Two Detached Dwellings as indicated in the table in subsection 10.a above.

c. 100% Deed-Restricted Affordable Housing; Existing Multifamily: 0.75:1 FAR. Existing multifamily that is not 100% Deed-Restricted Affordable Housing remains a non-conforming use and is limited to its existing floor area.

26.710.090 Residential Multi-Family (RMF).

A. **Purpose.** The purpose of the Residential Multi-Family (RMF) Zone District is to provide for the use of land for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Residential Multi-Family (RMF) Zone District are typically those found in the Aspen infill area, within walking distance of the center of the City or lands on transit routes and other lands with existing concentrations of attached residential dwellings and mixed attached and detached residential dwellings.

B. **Permitted uses.** The following uses are permitted as of right in the Residential Multi-Family (RMF) Zone District:

1. Detached residential dwelling.
2. Two (2) detached residential dwellings.
3. Duplex dwelling.
4. Multi-family dwellings.
5. Home occupations.
6. Accessory buildings and uses.
7. Dormitory.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
9. For historic landmark properties: bed and breakfast.
10. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Residential Multi-Family (RMF) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Residential Multi-Family (RMF) Zone District:

1. Minimum Gross Lot Area (square feet): six thousand (6,000). For lots created by Paragraph 26.480.030.A.4, Historic landmark lot split: three thousand (3,000). For
properties that include or are proposed for 100% deed-restricted affordable housing: three thousand (3,000).

2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Detached residential dwelling: four thousand five hundred (4,500). For historic landmark properties: three thousand (3,000).
   b. Duplex dwelling unit: four thousand five hundred (4,500). For historic landmark properties: three thousand (3,000).
   c. Multi-family dwellings: No requirement.
   d. Bed and breakfast: No requirement.


4. Minimum front yard setback (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: five (5).

5. Minimum side yard setback (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: five (5).

6. Minimum rear yard setback (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: five (5).

7. Maximum height (according to density) (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family – parcel density less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: twenty-five (25).
   c. Multi-family – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: thirty-two (32).

8. Minimum distance between buildings on the lot (feet):
   a. Detached residential and duplex dwellings: same as R-6 Zone District.
   b. Multi-family: No requirement. (Building and Fire Codes may apply.)


10. Floor area ratio (FAR). This Paragraph applies to each type of use according to density and applies to conforming and nonconforming lots of record:

City of Aspen Land Use Code
Part 700, RMF zone
Page 2
a. *Existing detached residential and duplex dwellings:* one hundred percent (100%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

b. *New or replacement after demolition detached residential and duplex dwellings:* eighty percent (80%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

c. *Multi-family – parcel density of less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area:* 0.75:1.

d. *Multi-family – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area:* 1.25:1.

e. *Multi-family – parcel density equal to or greater than one (1) unit per seven hundred fifty (750) square feet of Gross Lot Area:* 1.5:1.

11. **Maximum multi-family unit size (square feet):** For properties in the Aspen infill area, two thousand (2,000) square feet of net livable area. For properties outside the Aspen infill area, two thousand five hundred (2,500) square feet of net livable area.

   a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

      1) The transfer ratio is five hundred (500) square feet of net livable area for each certificate that is purchased.

      2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is two thousand five hundred (2,500) square feet of net livable area for properties within the Aspen infill area and three thousand (3,000) square feet of net livable area for properties outside the Aspen infill area (i.e., no more than five hundred [500] additional square feet may be applied per unit).

      3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the floor area ratio (FAR) of the lot.

Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates.

26.710.100 Residential Multi-Family-A (RMFA).

A. Purpose. The purpose of the Residential Multi-Family-A (RMFA) Zone District is to provide for the use of land for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Residential Multi-Family-A (RMFA) Zone District are typically those found in the Aspen infill area, within walking distance of the center of the City or lands on transit routes and other lands with existing concentrations of attached residential dwellings and mixed attached and detached residential dwellings.

B. Permitted uses. The following uses are permitted as of right in the Residential Multi-Family-A (RMFA) Zone District:

1. Detached residential dwelling.
2. Two (2) detached residential dwellings.
3. Duplex dwelling.
4. Multi-family dwellings.
5. Home occupations.
6. Accessory buildings and uses.
7. Dormitory.
8. Accessory dwelling units and carriage houses meeting the provisions of Chapter 26.520.
9. For historic landmark properties: bed and breakfast.
10. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Residential Multi-Family-A (RMFA) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Arts, cultural and civic uses.
2. Academic uses.
3. Recreational uses.
4. Group home.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Residential Multi-Family-A (RMFA) Zone District:
1. Minimum Gross Lot Area (square feet): six thousand (6,000). For historic landmark properties: three thousand (3,000). For properties that include or are proposed for 100% Deed-Restricted Affordable Housing: three thousand (3,000).

1. Minimum Net Lot Area per dwelling unit (square feet):
   a. Detached residential dwelling: 4,500. For historic landmark properties: 3,000.
   b. Duplex dwelling unit: 4,500. For historic landmark properties: 3,000.
   c. Multi-family dwellings: No requirement.
   d. Bed and breakfast: No requirement.

3. Minimum lot width (feet): sixty (60). For historic landmark properties: thirty (30). For lots containing or proposed for 100% Deed-Restricted Affordable Housing: Thirty: (30)

3. Minimum front yard setback (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: 5.

4. Minimum side yard setback (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: 5.

5. Minimum rear yard setback (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: 5.

6. Maximum height (according to density) (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family – parcel density less than one (1) unit per 1,500 square feet of Gross Lot Area: 25.
   c. Multi-family – parcel density equal to or greater than one (1) unit per 1,500 square feet of Gross Lot Area: 32.

7. Minimum distance between buildings on the lot (feet):
   a. Detached residential and duplex dwellings: Same as R-6 Zone District.
   b. Multi-family: No requirement. (Building and Fire Codes may apply).


9. Floor area ratio (FAR). This Paragraph applies to each type of use according to density and applies to conforming and nonconforming lots of record:
a. **Existing detached residential and duplex dwellings:** One hundred percent (100%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

b. **New or replacement after demolition detached residential and duplex dwellings:** Eighty percent (80%) of the allowable floor area of an equivalent-sized lot located in the R-6 Zone District. (See Section 26.710.040, R-6 Zone District.) City historic transferable development rights shall not permit additional floor area for detached residential and duplex dwellings.

c. **Multi-family** – parcel density of less than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 0.75:1.

d. **Multi-family** – parcel density equal to or greater than one (1) unit per one thousand five hundred (1,500) square feet of Gross Lot Area: 1.25:1.

e. **Multi-family** – parcel density equal to or greater than one (1) unit per seven hundred fifty (750) square feet of Gross Lot Area: 1.5:1.

10. **Maximum multi-family unit size (square feet):** For properties in the Aspen infill area, two thousand (2,000) square feet of net livable area. For properties outside the Aspen infill area, two thousand five hundred (2,500) square feet of net livable area.

a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

1) The transfer ratio is 500 square feet of net livable area for each certificate that is purchased.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 square feet of net livable area for properties within the Aspen infill area and 3,000 square feet of net livable area for properties outside the Aspen infill area (i.e., no more than five hundred [500] additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the floor area ratio (FAR) of the lot.

   Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates.

26.710.110 Affordable Housing/Planned Development (AH/PD).

A. Purpose. The purpose of the Affordable Housing/Planned Development (AH/PD) Zone District is to provide for the use of land for the production of category affordable housing and resident occupied lots and units. The Zone District also permits a limited component of free market lots/units to offset the cost of developing affordable housing. It is contemplated that land may also be subdivided in connection with a development plan. The AH/PD Zone District is intended for residential use primarily by permanent residents of the community and in some instances allows for Short-term Rentals. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the AH/PD Zone District should be scattered throughout the City to ensure a mix of housing types, including those which are affordable by its working residents; at the same time the AH/PD Zone District can protect the City's neighborhoods from rezoning pressures that other non-community-oriented Zone Districts may produce. Further, lands in the AH/PD Zone District should be located within walking distance of the center of the City or on transit routes.

B. Permitted uses. The following uses are permitted as of right in the AH/PD Zone District:

1. Residential uses restricted to category affordable housing guidelines and resident occupied units which comply with the following requirements:
   a. Minimum bedroom mix. A minimum of seventy percent (70%) of the project's total bedrooms shall be deed restricted affordable housing consistent with the Affordable Housing Guidelines. The mix between categories of housing shall be consistent with the Affordable Housing Guidelines. The remaining bedrooms that are not deed restricted to affordable housing may be free market residential units.
   b. Permissible reduction in bedroom mix for exemplary projects. A project may be eligible for a reduction of the minimum affordable housing bedroom mix requirement to a level of sixty percent (60%) of the project's total bedrooms if the applicant can demonstrate to the satisfaction of the City Council that the project meets the requirements for an exceptional project as set forth in the Affordable Housing Guidelines.
2. Home occupations.
3. Accessory buildings and uses.
4. Accessory dwelling units meeting the provisions of Chapter 26.520.
5. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The followings uses are permitted as conditional uses in the Affordable Housing (AH) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Park and open use recreation site.
2. Child care center.
4. Dormitory.
5. Transit facilities.

D. **Dimensional requirements.** The following dimensional requirements shall be established by adoption of a Final PD Development Plan and shall apply to all permitted and conditional uses in the Planned Development:

1. Minimum Gross Lot Area.
2. Minimum Net Lot Area per dwelling unit.
3. Maximum allowable density.
4. Minimum lot width.
5. Minimum front yard.
7. Minimum rear yard.
8. Maximum site coverage.
9. Maximum height (including view planes).
10. Minimum distance between buildings on the lot.
11. Minimum percent open space required for the building site.
12. Trash access area.
13. Allowable floor area.
15. Other dimensions determined necessary to establish through the PD process.

*Note #1:* The maximum allowable density permitted in this zone shall be established by adoption of a Final PD Development Plan by using the following table applied to the proposed fathering parcel as a guide:

City of Aspen Land Use Code
Part 700, AH/PD zone
Page 2
<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Minimum Net Lot Area* Per Dwelling Unit (Square Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dormitory</td>
<td>300</td>
</tr>
<tr>
<td>Studio</td>
<td>400</td>
</tr>
<tr>
<td>One Bedroom</td>
<td>500</td>
</tr>
<tr>
<td>Two Bedroom</td>
<td>1000</td>
</tr>
<tr>
<td>Three Bedroom</td>
<td>1500</td>
</tr>
<tr>
<td>3+ Bedrooms</td>
<td>500 /Bedroom</td>
</tr>
</tbody>
</table>

**Note #2:** The allowable floor area permitted in this zone shall be established by adoption of a Final PD Development Plan by using the following table applied to the proposed fathering parcel as a guide:

<table>
<thead>
<tr>
<th>Fathering Parcel Net Lot Area*</th>
<th>Allowable Floor Area Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—15,000 square feet</td>
<td>1.1:1</td>
</tr>
<tr>
<td>15,001—25,000 square feet</td>
<td>1:1</td>
</tr>
<tr>
<td>25,001—43,560 square feet</td>
<td>.8:1</td>
</tr>
<tr>
<td>&gt;1 acre—3 acres</td>
<td>.6:1</td>
</tr>
<tr>
<td>&gt;3 acres—6 acres</td>
<td>.36:1</td>
</tr>
<tr>
<td>&gt;6 acres</td>
<td>.3:1</td>
</tr>
</tbody>
</table>

* Net Lot Area as defined in the Land Use Code.

(Ord. No. 27-2010, §4; Ord. No. 34-2011, §10)
26.710.120  High Density Residential (R-3).

A.  **Purpose.** The purpose of the High Density Residential (R-3) Zone District is to provide for the use of land to locate manufactured housing for intensive long-term residential purposes, Short-term Rentals, and customary accessory uses and less intensive office uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. The High Density Residential (R-3) Zone District shall be located in areas where the effect on surrounding property shall be minimized, where the health, safety and general welfare of the High Density Residential (R-3) Zone District residents and others will be protected and where the topography is suitable for the permitted uses and conditional uses allowed in the High Density Residential (R-3) Zone District.

B.  **Permitted uses.** The following uses are permitted as of right in the High Density Residential (R-3) Zone District:

1. Mobile home park.
2. Home occupations.
3. Accessory buildings and uses.
4. Accessory dwelling units meeting the provisions of Chapter 26.520.

C.  **Conditional uses.** The following uses are permitted as conditional uses in the High Density Residential (R-3) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Park and open use recreation site.
2. Public and private academic school.
3. Church.

D.  **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the High Density Residential (R-3) Zone District:

1. **Minimum Gross Lot Area:** three thousand (3,000) square feet.
2. **Minimum Net Lot Area per dwelling unit:** three thousand (3,000) square feet.
3. **Minimum lot width:** forty (40) feet.
4. **Minimum front yard setback:** five (5) feet (excluding hitch on mobile home).
5. **Minimum side yard setback:** five (5) feet.
6. **Minimum rear yard setback:** five (5) feet.
7. **Maximum height:**
Administrative service buildings: twenty-five (25) feet.
All other structures: fifteen (15) feet.

8. Minimum distance between principal and accessory buildings: five (5) feet.
9. Percent of open space required for building site: No requirement.
10. External floor area ratio: No requirement.

26.710.130 Rural Residential (RR).

A. Purpose. The purpose of the Rural Residential (RR) Zone District is to allow utilization of land for low density, long-term residential and Short-term Rentals purposes with the recreational, institutional, public and other compatible uses customarily found in proximity to those uses allowed as permitted uses or conditional uses.

B. Permitted uses. The following uses are permitted as of right in the Rural Residential (RR) Zone District:

1. Detached residential dwelling.
2. Farm building and use, provided that all such buildings and storage areas are located at least one hundred (100) feet from pre-existing dwellings on other lots.
5. Home occupations.
6. Accessory buildings and uses.
7. Accessory dwelling units meeting the provisions of Section 26.520.040.
8. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Rural Residential (RR) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Public building.
2. Public and private academic school.
3. Church.
4. Radio tower.
5. Recreation club.
7. Park and open use recreation site including ski runs, ski lifts and other skiing facilities and structures.
8. Sewage disposal.
10. Electric substation or gas regulator station (not including building for offices, repair or storage).
11. Veterinary clinic.
D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Rural Residential (RR) Zone District:

1. **Minimum Gross Lot Area:** two (2) acres.
2. **Minimum Net Lot Area per dwelling unit:** two (2) acres.
3. **Minimum lot width:** two hundred (200) feet.
4. **Minimum front yard setback:** thirty (30) feet.
5. **Minimum side yard setback:** twenty (20) feet.
6. **Minimum rear yard setback:** twenty (20) feet.
7. **Maximum height:** twenty-eight (28) feet.
8. **Minimum distance between principal and accessory buildings:** No requirement.
9. **Percent of open space required for building site:** No requirement.
10. **External floor area ratio (applies to conforming and nonconforming lots of record):** same as R-15 Zone District.

(Ord. No. 56-2000, § 3; Ord. No. 25-2001, § 3; Ord. No. 27-2010, §4; Ord. No. 34-2011, §12)
26.710.140 Commercial Core (CC).

A. **Purpose.** The Commercial Core (CC) serves as the highest intensity commercial area, fulfilling the policies of the Aspen Area Community Plan geared towards a strong and sustainable local and visitor economy, a diversity of commercial opportunities and the maintenance of Aspen’s historic character. The CC zone provides for the use of land for retail, service, commercial, and institutional purposes within mixed-use buildings oriented to local and tourist populations. The balance of uses is designed to enhance the business and commercial character in the historic core of the City and provide commercial opportunities proximate to multi-modal transit infrastructure. This mix of uses creates economic, cultural and social vitality.

B. **Permitted uses.** The following uses are permitted by right in the Commercial Core (CC) Zone District:

1. **Uses allowed on basement floors:** General retail, specialty retail, restaurant, bar and entertainment uses, office uses, and building elements necessary and incidental to uses on other floors. Lodging uses, only when the entire building is dedicated to lodging and associated commercial use.

2. **Uses allowed on the ground floor:** General retail, specialty retail, restaurant, bar and entertainment uses, and uses and building elements necessary and incidental to uses on other floors. Lodging uses, only when the entire building is dedicated to lodging and associated commercial use. Office uses are prohibited on the ground floor except within spaces set back a minimum of forty (40) feet from the front property line and recessed behind the front-most street-facing façade. This prohibition shall not apply to split-level buildings (see definition) or properties north of Main Street. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

3. **Uses allowed on upper floors:** General retail, specialty retail, restaurant, bar and entertainment uses, office uses, lodging, and affordable multi-family housing.

4. **Uses allowed on all floors:** General retail, specialty retail, restaurant, bar and entertainment uses, arts, cultural, civic and community uses, public uses, academic uses, service uses, accessory uses and structures, storage accessory to a permitted use, and uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use.

5. **Free-Market Residential Units:** No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 25 (Series of 2012).

6. **Affordable Housing Units:** Affordable housing is permitted by right on upper floors.
7. **Home Occupations and Short-term Rentals**: Home Occupations and Short-term Rentals are permitted only in legally established residential units.

**C. Conditional uses.** The following uses are permitted as conditional uses in the Commercial Core (CC) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Gasoline service station.
2. Commercial parking facility, pursuant to Chapter 26.515.
3. Automobile showroom and dealership.
4. Formula uses, which shall be subject to the provisions contained in Section 26.425.045.
5. Lodge, Boutique.

**D. Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial Core (CC) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. **Minimum Gross Lot Area (square feet):** No requirement.
2. **Minimum Net Lot Area per dwelling unit (square feet):** No requirement.
3. **Minimum lot width (feet):** No requirement.
4. **Minimum front yard setback (feet):** No requirement.
5. **Minimum side yard setback (feet):** No requirement.
6. **Minimum rear yard setback (feet):** No requirement.
7. **Minimum utility/trash/recycle area:** Pursuant to Chapter 12.06.
8. **Maximum height (feet):** Twenty-eight (28) feet.
9. **Minimum distance between buildings on the lot (feet):** No requirement.
10. **Public amenity space:** Pursuant to Section 26.412.
11. **Floor area ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.25:1.
    a. **Commercial uses:** 2.25:1.
b. *Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, child care center and similar uses*: 2:1.

c. *Affordable multi-family housing*: Greater of existing FAR or 1:1.

d. *Lodging*: 0.5:1, which may be increased to 1.5:1 if the individual lodge units on the parcel average five hundred (500) net livable square feet or less, which may be comprised of lock-off units.

e. *Free-Market multi-family housing*: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted, except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), *Measuring Floor Area*, except as noted above.

12. *Maximum lodge unit size (square feet):* 1,500. When units are comprised of lock-off units, this maximum shall apply to the largest possible combination of units.

13. *Net Livable Area (square feet):*
   a) *Category 1-5 Affordable multi-family housing*: No limitation.

   b) *Resident Occupied Affordable multi-family housing*: Individual units shall be limited to 2,000 sq ft of net livable area.

   c) *Free-Market Residential*: Overall net livable area for a building or project is limited to the existing net livable square footage. No expansion to overall net livable area shall be permitted, except as described below. Any subsequent reduction in net livable area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater net livable area. Individual units shall be limited to 2,000 sq ft of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

   d) *Expansions Allowed*: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
   1) The transfer ratio is 500 sq ft of net livable area for each certificate that is extinguished.
   2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 sq ft of net livable area (i.e., no more than 500 additional square feet may be applied per unit).
3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

14. Commercial/residential ratio: When development includes mixed-uses, the total residential net livable area shall be no greater than 65% of the total above-grade commercial net leasable and lodge net livable area on the same parcel.

Compliance with City of Aspen Charter. Any property located east of Castle Creek that was in the Commercial Core (CC) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

26.710.150 Commercial (C-1).

Purpose. The Commercial (C-1) zone district provides for a diversity of commercial uses in mixed-use buildings outside of the historic context of the Commercial Core (CC) zone district. The C-1 zone advances Aspen Area Community Plan policies geared toward a strong and sustainable local and visitor economy, a diversity of commercial opportunities and the maintenance of Aspen as a recreation and cultural destination. The C-1 zone creates economic vitality by providing a mix of commercial uses with greater flexibility in architecture and design, enhancing Aspen’s community character. The C-1 creates a transition from the more intense activity of the CC zone district to the surrounding mixed-use, residential and lodge related uses.

B. Permitted uses. The following uses are permitted by right in the Commercial (C-1) Zone District:

1. Uses allowed on all floors: General retail, specialty retail, restaurant, bar and entertainment uses, service uses, lodging uses, office uses, arts, cultural, civic and community uses, public uses, recreational uses, academic uses, bed and breakfast, accessory uses and structures, and uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use, storage accessory to a permitted use. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

2. Uses allowed on upper floors: Affordable multi-family housing.

3. Free-Market Residential Units: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 25 (Series of 2012).

4. Affordable Housing Units: Affordable housing is permitted by right.

5. Home Occupations and Short-term Rentals: Home Occupations and Short-term Rentals are permitted on any building level only in legally established residential units.

C. Conditional uses. The following uses are permitted as conditional uses in the Commercial (C-1) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Affordable multi-family housing or home occupations on the ground floor.
2. Commercial parking facility, pursuant to Section 26.515.
3. Automobile showroom and dealership.
4. Formula uses, which shall be subject to the provisions in Section 26.425.045.
5. Lodge, Boutique.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial (C-1) Zone District. The dimensional...
standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. **Minimum Gross Lot Area (square feet):**
   - **Bed and breakfast:** 3,000.
   - **All other uses:** No requirement.

2. **Minimum Net Lot Area per dwelling unit (square feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

3. **Minimum lot width (feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

4. **Minimum front yard setback (feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

5. **Minimum side yard setback (feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

6. **Minimum rear yard setback (feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

7. **Minimum utility/trash/recycle area:** Pursuant to chapter 12.06

8. **Maximum height:**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** Twenty-Eight (28) feet

9. **Minimum distance between buildings on the lot (feet):**
   - **Bed and breakfast:** Same as R-6 Zone District.
   - **All other uses:** No requirement.

10. **Public amenity space:** Pursuant to Section 26.412.

11. **Floor area ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2:1.

b. Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, and similar uses: 1.75:1.

c. Affordable multi-family housing: Greater of existing FAR or 1:1

d. Lodging: .5:1, which may be increased to 1.5:1 if the individual lodge units on the parcel average five hundred (500) net livable square feet or less, which may be comprised of lock-off units.

e. Bed and breakfast (as the sole use of parcel and not cumulative with other uses): Eighty percent (80%) of allowable floor area of a same-sized lot located in the R-6 Zone District. (See R-6 Zone District.) Extinguishment of historic TDRs shall not permit additional FAR for single-family or duplex development.

f. Free-Market multi-family housing: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020 C. Measuring Floor Area, except as noted above.

12. Maximum lodge unit size (square feet): 1,500. When units are comprised of lock-off units, this maximum shall apply to the largest possible combination of units.

13. Net Livable Area (square feet):
   a) Category 1-5 Affordable multi-family housing: No limitation.

   b) Resident Occupied Affordable multi-family housing: Individual units shall be limited to 2,000 sq. ft. of net livable area.

   c) Free-Market Residential: Overall net livable area for a building or project is limited to the existing net livable square footage. No expansion to overall net livable area shall be permitted. Any subsequent reduction in net livable area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater net livable area. Individual units shall be limited to 2,000 sq. ft. of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.
d) **Expansions Allowed:** Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:

1) The transfer ratio is 500 sq.-ft. square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 sq.-ft. square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

14. **Commercial/residential ratio:** When development includes mixed-uses, the total residential net livable area shall be no greater than 65% of the total commercial net leasable and lodge net livable area on the same parcel.

**E. Compliance with City of Aspen Charter.** Any property located east of Castle Creek that was in the Commercial (C-1) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.


A. **Purpose.** The S/C/I zone supports Aspen Area Community Plan policies related to a sustainable, local serving economy and the preservation of a diversity of commercial opportunities for locals and visitors. In response to the decreased intensity of commercial uses in the zone and relative distance from the CC and C1 zones, both multi-modal and automobile parking improvements are appropriate on site in the S/C/I. In order to enhance the City’s commercial diversity, the zone allows for uses not found in other zones including light industrial, manufacturing, production, repair and similar service-related uses. The S/C/I zone is designed to provide commercial space to those uses not appropriate in other commercial zones, but which provide an essential or unique service to support the local economy. Flexibility and adaptability are important features of the zone to respond to changing commercial sector dynamics and meet the space needs of the City’s service, creative and production economies.

B. **Permitted and Conditional Uses.**

1. The following uses may have, in combination, a limited percent of the floor area, devoted to retail sales, showroom, or customer reception, and such uses shall be ancillary to the primary commercial use. This floor area percentage may be increased through Special Review by the Planning and Zoning Commission, pursuant to Section 26.430.050, and according to the standards of Section 26.710.160.E.1.

<table>
<thead>
<tr>
<th>% retail sales, showroom, or customer reception (maximum – net leasable area)</th>
<th>Uses include the manufacturing, repair, customization, servicing, alteration, detailing, rental or sale of consumer goods, such as:</th>
</tr>
</thead>
</table>
| 100% | • Vehicle sales.  
• Building materials, components, hardware, fixtures, interior finishes and equipment.  
• Fabric and sewing supply.  
• Household appliances such as ranges, refrigerators, dishwashers, etc.  
• Outdoor recreational items, which may be in combination with a service use related to guiding or touring. |
| 25% | • Animal boarding facility.  
• Animal grooming establishment.  
• Artist studio.  
• Brewery and brewing supply.  
• Coffee roasting and supply.  
• Commercial dry cleaning.  
• Commercial Kitchen or Bakery.  
• Design Studio (limited to the Andrews-McFarlin Subdivision).  
• Laundromat.  
• Locksmith. |
% retail sales, showroom, or customer reception (maximum – net leasable area)

Uses include the manufacturing, repair, customization, servicing, alteration, detailing, rental or sale of consumer goods, such as:

- Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, or Marijuana Testing Facility.
- Consumer electronics service and repair.
- Post Office branch.
- Printing and copy center.
- Shipping, packing and receiving services.
- Veterinary clinic.

10%

- Automobile washing facility.
- Building/landscape maintenance facility.
- Warehousing and storage.

2. **Primary Care Physician’s Office**
   - Uses permitted:
     - On Upper Floors, pursuant to Section 26.710.160 (D)11(b).
     - Limited to a cap of 3,500 square feet at the Obermeyer Place PD, upon execution of an Insubstantial PD Amendment.

3. **Affordable Housing Units**: Affordable housing is permitted as a mixed use with other approved S/C/I uses. See 26.710.160.D.11 for Affordable Housing FAR requirements. Additionally, the project must demonstrate that the residential use and individual units are substantially removed and physically separated from Commercial Uses on the same parcel, to the extent practicable, so as to isolate residential uses from commercial impacts and to adequately provide for on-loading, off-loading, circulation and parking for commercial uses.

4. **Permitted Accessory Uses**:
   - Service yard accessory to a permitted use.
   - Sales and rental accessory and incidental to a permitted use.
   - Accessory buildings and uses.
   - Home occupations and Short-term Rentals: Home Occupations and Short-term Rentals are permitted only in legally established residential units.
   - Offices, accessory to a permitted or conditional use, may occupy up to 10% of a commercial unit.

C. **Conditional uses**. The following uses are permitted as conditional uses in the Service/Commercial/Industrial (SCI) zone district, subject to the procedures established in Chapter 26.425.050 Procedures for Review, and the standards established in Section 26.710.160(C).
1. **Free-Market Residential Units**: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to Ordinance 29, Series 2016.

2. Consignment retail establishment.

3. Commercial Parking Facility, pursuant to Section 26.515.

4. Gasoline service station.

5. Grocery store.

### D. Dimensional requirements

The following dimensional requirements shall apply to all permitted and conditional uses in the Service/Commercial/Industrial (SCI) zone district. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. **Minimum Gross Lot Area (square feet)**: 3,000

2. **Minimum Net Lot Area per dwelling unit (square feet)**: No requirement.

3. **Minimum lot width (feet)**: No requirement.

4. **Minimum front yard setback (feet)**: No requirement.

5. **Minimum side yard setback (feet)**: No requirement.

6. **Minimum rear yard setback (feet)**: No requirement.

7. **Minimum Utility/Trash/Recycle area**: Pursuant to Chapter 12.06.

8. **Maximum height**: Thirty-five (35) feet.

9. **Minimum distance between buildings on the lot (feet)**: No Requirement.

10. **Pedestrian Amenity Space**: Pursuant to Section 26.412.

11. **Floor Area Ratio (FAR)**: The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.25:1. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

    a. **Commercial Uses**: 2.25:1.
b. **Primary Care Physician’s Office uses**: .25:1 FAR, only if a minimum of .75:1 FAR of Commercial uses, listed in Section 26.710.160(B)1-3, exist on the same parcel.

c. **Affordable Multi-Family Housing (as a mixed use)**: Greater of existing FAR or 1:1.

d. **Free-Market Multi-Family Housing**: Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as noted above.

12. **Maximum multi-family residential dwelling unit size (square feet):**

   a) **Category 1-5 Affordable multi-family housing**: No limitation.

   b) **Resident Occupied Affordable multi-family housing**: Individual units shall be limited to 2,000 sq. ft. of net livable area.

   c) **Free-Market multi-family housing**: Individual units shall be limited to 2,000 sq. ft. of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

   d) **Expansion Allowed**: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:

      1) The transfer ratio is 500 sq. ft. of net livable area for each certificate that is extinguished.

      2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 sq. ft. of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

      3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

E. **Special Review Standards**. Whenever the dimensional standards of a proposed development within the SCI Zone District are subject to Special Review, the development application shall be processed as a Special Review, pursuant to Section 26.430.050. The following additional criteria apply:
1. To increase the allowable percentage of interior space assigned to retail, showroom, or customer reception area, the applicant shall demonstrate the need and appropriateness for such additional space and shall demonstrate consistency with the purpose of the SCI Zone District.

2. The additional approved percentage for a specific use shall be limited to that use and not applicable to subsequent uses in the same space.

F. Conditional Use Review Standards.

1. Retail, Showroom or Customer Reception Area. In addition to meeting the standards in Chapter 26.425, Conditional Use, the following Standards shall be met:

a. For consignment retail establishment, commercial parking facility (pursuant to Chapter 26.575), and gasoline service station, the Commission shall establish the appropriate amount of floor area to be devoted to retail sales, showroom, or customer reception as a condition of conditional use review.

b. To establish the allowable percentage of interior space assigned to retail, showroom, or customer reception area, the applicant shall demonstrate the need and appropriateness for the space and shall demonstrate consistency with the purpose of the SCI Zone District. The approved percentage for a specific use is limited to that use and not applicable to subsequent uses in the same space.

G. Compliance with City of Aspen Charter. Any property located east of Castle Creek that was in the Service/Commercial/Industrial (S/C/I) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

(Ord. No. 2-1999, §1; Ord. No. 22-2005, §1; Ord. No. 4-2008; Ord. No. 27-2010, §4; Ord. No. 39-2013, §3; Ord. No. 20-2015, §4; Ord. No. 29, 2016, §3)
26.710.170 Neighborhood Commercial (NC).
A. Purpose. The Neighborhood Commercial (NC) zone supports Aspen Area Community Plan policies related to a sustainable, local serving economy and the preservation of a diversity of commercial opportunities for locals and visitors. The zone district provides opportunities for mixed-use development in close proximity to downtown at higher intensity than the Mixed Use or surrounding residential neighborhood zone districts. The NC allows for a mix of essential goods and services oriented businesses in close proximity to multi-modal transit infrastructure.

The mix of uses in the NC is designed to provide for the daily needs of residents and visitors in a built environment that enhances the community character of Aspen. Greater design flexibility and increased setbacks from the CC and C1 zones allows for mixed-use development which creates a transition from the downtown commercial areas and can accommodate retail, service commercial, food service and related uses in conjunction with affordable housing on upper floors as an ancillary use to the primarily commercial purpose of the zone. Limited on-site parking is appropriate in conjunction with high traffic volume or residential uses and in addition to multi-modal improvements.

B. Permitted uses. The following uses are permitted as of right in the Neighborhood Commercial (NC) Zone District:

1. Uses allowed on all building levels: General retail, restaurant, bar and entertainment uses, service uses, office uses, arts, cultural, civic and community uses, public uses, recreational uses, academic uses, accessory uses and structures, uses and building elements necessary and incidental to uses on other floors, including parking accessory to a permitted use, storage accessory to a permitted use.

2. Uses allowed on upper floors: Affordable multi-family housing.

3. Free-Market Residential Units: No new Free-Market Residential Units may be established. Free-Market Residential units are permitted on any level if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order (prior to Ordinance 29, Series of 2016).

4. Home Occupations and Short-term Rentals: Home Occupations and Short-term Rentals are permitted only in legally established residential units.

C. Conditional uses. The following uses are permitted as conditional uses in the Neighborhood Commercial (NC) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Commercial parking facility, pursuant to Chapter 26.515.
2. Automobile showroom and dealership.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Neighborhood Commercial (NC) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use
developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.

1. **Minimum Gross Lot Area (square feet):** No requirement.

2. **Minimum Net Lot Area per dwelling unit (square feet):** No requirement.

3. **Minimum lot width (feet):** No requirement.

4. **Minimum front yard setback (feet):** five (5).

5. **Minimum side yard setback (feet):** five (5).

6. **Minimum rear yard setback (feet):** five (5).

7. **Minimum utility/trash/recycle area:** Pursuant to Chapter 12.06.

8. **Maximum height:** twenty-eight (28) feet.

9. **Minimum distance between buildings on the lot (feet):** No requirement.

10. **Public amenity space:** Pursuant to Section 26.412.

11. **Floor area ratio (FAR):** The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 1.5:1. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.
   a. **Commercial uses:** 1.5:1.
   b. **Arts, cultural, civic and community uses, public uses, recreational uses, academic uses, and similar uses:** 1:1.
   c. **Affordable multi-family housing:** Greater of existing FAR and .5:1.
   d. **Free-market multi-family housing:** Limited to the existing free-market multi-family FAR. No expansion to FAR shall be permitted except at-grade patios, and decks (other than roof-top decks), balconies, exterior stairways, trellis, and other similar features up to 15% of the total free-market residential floor area. Any subsequent reduction in floor area occupied by such residential use shall be deemed a new limitation and the use shall not thereafter be enlarged to occupy a greater floor area. Free-market residential units shall not be able to utilize any exemptions to floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as noted above.
12. Maximum multi-family residential dwelling size (square feet):

a) **Category 1521-5 Affordable multi-family housing**: No limitation.

b) **Resident Occupied Affordable multi-family housing**: Individual units shall be limited to 1,500 sq. ft of net livable area.

c) **Free-Market multi-family housing**: Individual units shall be limited one thousand five hundred (1,500) square feet of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other provisions of this title.

d) **Expansions Allowed**: Notwithstanding the above, individual multi-family unit sizes may be increased by extinguishing Historic Transferable Development Right Certificates (“certificate” or “certificates”), subject to the following:
   1) The transfer ratio is 500 sq. ft of net livable area for each certificate that is extinguished.
   2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 sq. ft of net livable area (i.e., no more than 500 additional square feet may be applied per unit).
   3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

13. **Commercial/residential ratio**: When development includes mixed-uses the total residential net livable area shall be no greater than 65% of the total commercial net leasable and lodging net livable on the same parcel.

**E. Compliance with City of Aspen Charter**. Any property located east of Castle Creek that was in the Neighborhood Commercial (NC) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.180 Mixed-Use (MU).

A. Purpose. The Mixed Use (MU) zone serves as a transition from the more intense commercial areas of the CC and C-1 zones, and the residential and lodging zones surrounding Main Street. By allowing for a mix of commercial and residential uses and smaller-scale development, the Mixed Use zone reflects Aspen’s historic character and provides different economic and residential opportunities from more traditional commercial zones. Particularly along Main Street, the Mixed Use zone serves as a buffer from the traffic of Highway 82 while allowing for smaller scale commercial and residential opportunities.

Buildings in the Mixed Use zone consist primarily of commercial, service and office uses on the ground floor, and residential and office uses on upper floors and off of the primary street frontage. Uses in the MU zone should not erode the character of the neighborhood or create excessive impacts to the surrounding residential and lodging zone. Standalone residential uses are permitted on properties as a reflection of the historic residential nature of the zone district.

B. Permitted uses. The following uses are permitted as of right in the Mixed-Use (MU) Zone District:

1. On historic landmark properties: Bed and breakfast.
2. General retail uses.
3. Specialty retail uses.
4. Restaurant, bar and entertainment uses.
5. Service uses.
6. Office uses.
7. Lodging.
8. Arts, cultural, civic and community uses.
10. Recreational uses.
11. Academic uses.
12. Affordable multi-family residential.
13. Free-Market Residential Units: No new Free-Market Residential Units (single-family, duplex, multi-family) may be established. Free-Market Residential units are permitted if they were legally established (having received a Certificate of Occupancy, Development Order, or applied for a Development Order) prior to the effective date of Ordinance XX13 (Series of 2022). Demolition of existing free-market residential uses shall be subject to 26.312.020, Non-Conforming uses.
14. Accessory dwelling unit in a separate building accessed off the rear of a lot as an accessory use, meeting the provisions of Chapter 26.520.
15. Home occupations.
16. Accessory uses and structures.
17. Storage accessory to a permitted use.
18. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Mixed-Use (MU) Zone District, subject to the standards and procedures established in Chapter 26.425:
   1. Commercial parking facility, pursuant to Chapter 26.515.
   2. Automobile showroom and dealership.
   3. Formula uses in the Main Street Historic District, subject to the provisions contained in Section 26.425.045.
   4. Lodge, Boutique.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Mixed-Use (MU) Zone District. The dimensional standards and allotments provided in this section for commercial and mixed-use developments are the maximum allowable for the zone and may not be achieved for all developments. Site constraints, historic resources, on-site mitigation and replacement requirements, and other factors may prevent development from achieving some or all of the maximum allowable dimensional standards.
   1. **Minimum Gross Lot Area (square feet):** 3,000.
   2. **Minimum Net Lot Area per dwelling unit (square feet):**
      a. *Detached residential dwellings:* 4,500. 3,000 for historic landmark properties.
      b. *Duplex dwellings (square feet):* 4,500. 3,000 for historic landmark properties.
      c. *All other uses:* Not applicable.
   3. **Minimum lot width (feet):** 30.
   4. **Minimum front yard setback (feet):** 10, which may be reduced to 5, pursuant to Special Review, Chapter 26.430.
   5. **Minimum side yard setback (feet):** 5.
   6. **Minimum rear yard setback (feet):** 5.
   7. **Minimum utility/trash/recycle area:** Pursuant to Chapter 12.06.
   8. **Maximum height:**
      b. *All other uses:* 28 feet.
   9. **Minimum distance between buildings on the lot (feet):** 10.
   10. **Public amenity space:** Pursuant to Section 26.412.
11. Floor Area Ratio (FAR):
   a. The following FAR schedule applies to uses cumulatively and individually when
      part of a commercial, lodging, or mixed-use development, as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum (allowed by right)</th>
<th>Maximum by special review (see Subsection 26.430.040.A)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Main Street Historic District</td>
</tr>
<tr>
<td>Cumulative total of all uses</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Commercial</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Civic</td>
<td>1:1</td>
<td>1.25:1</td>
</tr>
<tr>
<td>Lodging</td>
<td>0.75:1</td>
<td>1:1</td>
</tr>
<tr>
<td>Affordable Housing</td>
<td>Maximum (allowed by right)</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Main Street Historic District: 1.25:1; All other locations: 1.5:1</td>
<td></td>
</tr>
</tbody>
</table>

b. Free-Market multi-family housing: Limited to the existing free-market as calculated
   per 26.575.020.D. No expansion shall be permitted, except at-grade patios, and
   decks (other than roof-top decks), balconies, exterior stairways, trellis, and other
   similar features up to 15% of the total free-market residential floor area. Any
   subsequent reduction in floor area occupied by such residential use shall be deemed
   a new limitation and the use shall not thereafter be enlarged to occupy a greater floor
   area. Free-market residential units shall not be able to utilize any exemptions to
   floor area outlined in Section 26.575.020(D), Measuring Floor Area, except as
   noted above. City historic transferable development rights shall not permit
   additional floor area for detached residential and duplex dwellings.

12. Maximum multi-family residential dwelling unit size (square feet):
   a) Category 1-5 Affordable multi-family housing: No limitation.
   b) Resident Occupied Affordable multi-family housing: Individual units shall be
      limited to 2,000 sq ft of net livable area.
   c) Free-Market multi-family housing: Individual units shall be limited to 2,000 sq ft
      of net livable area. Combination of Free-Market residential units is permitted, but subject to the net livable size limitations herein, as well as other
      provisions of this title.
   d) Expansions Allowed: Notwithstanding the above, individual free-market multi-family unit sizes may be increased by extinguishing Historic Transferable
Development Right Certificates (“certificate” or “certificates”), subject to the following:

1) The transfer ratio is 500 sq. ft. square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,500 sq. ft. square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the Floor Area Ratio (FAR) of the lot or the use.

13. **Commercial/residential ratio:** When development includes mixed-uses, the total residential net livable area shall be no greater than 150% the total commercial net leasable and lodging net livable area located on the same parcel.

**E. Compliance with City of Aspen Charter.** Any property located east of Castle Creek that was in the Mixed-Use (MU) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.190 Lodge (L).
A. Purpose. The purpose of the Lodge (L) Zone District is to encourage construction, renovation and operation of lodges, tourist-oriented multi-family buildings through Short-term Rentals, high occupancy timeshare facilities and ancillary uses compatible with lodging to support and enhance the City's resort economy. The City encourages high-occupancy lodging development in this zone district. Therefore, certain dimensional incentives are provided in this zone district, as well as other development incentives in Chapter 26.470, Growth Management Quota System (GMQS).

B. Permitted uses. The following uses are permitted as of right in the Lodge (L) Zone District:
   1. Hotel or lodge.
   2. Timeshare lodge.
   3. Exempt timesharing.
   4. Offices and activities accessory to timeshare unit sales (see Section 26.590).
   5. Bed and breakfast.
   7. Uses associated with outdoor recreation facilities and events.
   8. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
   9. Storage accessory to a permitted use.
  10. Affordable multi-family housing accessory to a lodging or timeshare operation and for employees of the operation.
  11. 100% Deed-Restricted Affordable Housing, multi-family (as a single use).
  13. Home occupations.
  14. Short-term Rentals. Pursuant to Section 26.530

C. Conditional uses. The following uses are permitted as conditional uses in the Lodge (L) Zone District, subject to the standards and procedures established in Chapter 26.425:
   1. Retail and restaurant uses.
   2. Neighborhood commercial uses.
   3. Service uses.
   4. Arts, cultural and civic uses.
5. Public uses.
6. Academic uses.
8. Commercial parking facility, pursuant to Chapter 26.515.
9. Affordable multi-family housing not accessory to a lodging or timeshare operation.
10. Formula uses, which shall be subject to the provisions contained in Section 26.425.045.
11. Lodge, Boutique.

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Lodge (L) Zone District:

1. Minimum Gross Lot Area (square feet): 3,000.
2. Minimum Net Lot Area per dwelling unit (square feet):
   a. Free-market multi-family residential: 3,000.
   b. Affordable multi-family residential: No requirement.
   c. Lodge, timeshare lodge and exempt timesharing: No requirement.
7. Minimum utility/trash/recycle area: pursuant to Section 26.575.060.
8. Maximum height:
   b. Multi-family (as a single use): 28 feet.
   c. Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with less than one lodge unit per 500 square feet of Gross Lot Area: 28 feet.
   d. Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with one (1) or more lodge units per 500 square feet of Gross Lot Area: 36 feet, which may be increased to 40 feet through Commercial Design Review. See Chapter 26.412. Also see Subsection 26.710.190.E.
   e. Lodge, timeshare lodge, exempt timesharing and mixed-use projects, with one or more lodge units per 500 square feet of Gross Lot Area and an average lodge unit
size of 450 square feet or less: 38 feet, which may be increased to 40 feet through commercial design review. See Chapter 26.412. Also see Subsection E below.


11. Floor area ratio (FAR):
   a. The following FAR schedule applies to commercial, lodge, timeshare lodge, exempt timesharing and mixed-use projects with one (1) or more lodge units per five hundred (500) square feet of Gross Lot Area. This FAR schedule is cumulative, up to a total maximum FAR of 2.75:1 for parcels of twenty-seven thousand (27,000) square feet or less in size and 2.5:1 for parcels greater than twenty-seven thousand (27,000) square feet. Also see Subsection 26.710.190.E. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

   1) General retail and specialty retail uses; restaurant, bar and entertainment uses; service uses; arts, assembly, cultural, civic and community uses; public uses; academic uses; child care centers: 0.25:1, which may be increased to 0.5:1 by special review, pursuant to Section 26.430.

   2) Lodge units, timeshare lodge units, exempt timesharing units: 2:1.


   4) Affordable multi-family housing: 0.25:1, which may be increased by special review, pursuant to Chapter 26.430.

   5) Free-market multi-family housing: The allowable floor area shall be based on a percentage of the total net livable area of lodging units and affordable housing units on the parcel and according to average lodge unit size on the parcel, as defined in Table 26.710.109.1, below:

<table>
<thead>
<tr>
<th>Average net livable area of individual lodge units on the parcel</th>
<th>Free-market residential FAR as a percentage of total lodge unit and affordable housing net livable area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 600 square feet</td>
<td>5%</td>
</tr>
<tr>
<td>600 square feet</td>
<td>15%</td>
</tr>
<tr>
<td>500 square feet</td>
<td>40%</td>
</tr>
</tbody>
</table>

Table 26.710.109.1
Allowable Free-Market Residential FAR

City of Aspen Land Use Code
Part 700, L zone
Page 3
When the average lodge unit size falls between the square footage categories, the allowable free-market multi-family or large lodge/timeshare unit floor area shall be determined by interpreting the above schedule proportionately. For example, a lodge project with an average unit size of 450 square feet shall be allowed to develop a free-market residential floor area up to 45% of the total lodge unit net livable area.

This percentage of free-market residential FAR may not be otherwise established for a project through a planned development review.

All non-unit space attributable to free-market residential or large lodge/timeshare units shall count towards the individual FAR allowance for free-market residential or large lodge/timeshare units.

b. The following FAR schedule applies to commercial, lodge, timeshare lodge, exempt timesharing and mixed-use projects, with less than one lodge unit per 500 square feet of Gross Lot Area. This FAR schedule is cumulative, up to a total maximum FAR of 1.5:1 for parcels of twenty-seven thousand 27,000 square feet or less in size and 1:1 for parcels greater than 27,000 square feet. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded.

1) Commercial uses; arts, cultural and civic uses; public uses; academic uses; child care center: .25:1, which may be increased to .5:1 by special review, pursuant to Section 26.430.
2) Lodge units, Timeshare Lodge units, Exempt Timesharing units: 1:1.
4) Affordable multi-family housing: .25:1, which may be increased by special review, pursuant to Section 26.430.030.a
5) Free-market multi-family housing: .25:1. All non-unit floor area attributable to free-market multi-family housing shall count towards the individual FAR allowance for free-market multi-family housing.

c. The following FAR schedule applies to Free-Market multi-family (as a single use) projects established prior to the adoption of Ordinance No. 9, Series of 2005, up to a total maximum FAR of 1:1. Receipt of a development order shall constitute the date the use was established.

d. The following FAR schedule applies to Free-Market, multi-family (as a single use) projects established after the adoption of Ordinance 9, Series of 2005, up to a total maximum FAR of .5:1. Receipt of a development order shall constitute the date the use was established.

e. The following FAR schedule applies to 100% Deed-Restricted Affordable Housing (as a single-use): 1.5:1.
f. The following FAR schedule applies to bed and breakfast as a single use of the parcel: 100% of the allowable floor area of a single-family residence on an equivalent-sized lot located in the R-6 Zone District. (See R-6 Zone District.)

12. Maximum Multi-Family Residential Dwelling Unit Size (square feet): 1,500 sq. ft. of net livable area.

  a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

    1) The transfer ratio is 500 square feet of net livable area for each certificate that is extinguished.

    2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 square feet of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

    3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the FAR of the lot.

      Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates

E. Special review for density standard. The Planning and Zoning Commission may approve an adjustment of the "density standard," and the project shall remain qualified for the height, floor area, and growth management incentives associated with this standard. The review shall be pursuant to the review procedures for special review, Chapter 26.430, and the following criteria:

1. The density standard may be amended by a maximum of 10% to one lodge unit per 550 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

F. Compliance with City of Aspen Charter. Any property located east of the Castle Creek River that was in the Lodge (L) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.
26.710.200 Commercial Lodge (CL).

A. Purpose. The purpose of the Commercial Lodge (CL) Zone District is to provide for the establishment of mixed-use commercial and lodge development by permitting commercial uses on the ground floor with lodging development above. The City encourages high-occupancy lodging development in this zone district through hotel, lodge and timeshare uses and Short-term Rentals.

B. Permitted uses. The following uses are permitted as of right in the Commercial Lodge (CL) Zone District:

1. Uses allowed in basement and ground floors: Lodge uses, conference facilities, restaurant, bar and entertainment uses, office uses, service uses, arts, assembly, cultural, civic and community uses, recreational uses, academic uses, and child care center. Uses and facilities necessary and incidental to uses on Upper Floors. Parking shall not be allowed as the sole use of the ground floor. Automobile drive-through service is prohibited.

2. Uses allowed on upper floors: Lodge uses, exempt timesharing, offices and activities accessory to timeshare unit sales (see Chapter 26.590), accessory uses, storage accessory to a permitted use, affordable multi-family housing, free-market multi-family housing, Short-term Rentals. (Food service for on-site lodge guests is an accessory use.)

C. Conditional uses. The following uses are permitted as conditional uses in the Commercial Lodge (CL) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. The following uses may be located only on upper floors: general retail and specialty retail uses, restaurant, bar and entertainment uses, service uses, office uses, arts, assembly, cultural, civic, and community uses, public uses, academic uses or child care centers.

2. Commercial parking facility, pursuant to Chapter 26.515.

3. Formula uses.

4. Lodge, Boutique.

D. Dimensional requirements. The following dimensional requirements shall apply to all permitted and conditional uses in the Commercial Lodge (CL) Zone District:

1. Minimum Gross Lot Area (square feet): No requirement.

2. Minimum Net Lot Area per dwelling unit (square feet): No requirement.


7. Minimum utility/trash/recycle area: pursuant to Section 26.575.060.

8. Maximum height: 28 feet for two-story elements of a building. 36 feet for three-story elements of a building, which may be increased to 40 feet through Commercial Design Review. See Chapter 26.412. For projects with an average lodge unit size of four hundred fifty (450) square feet or less, three-story elements of a building may be 38 feet, which may be increased to 40 feet through commercial design review.


11. Floor area ratio (FAR): The following FAR schedule applies to uses cumulatively up to a total maximum FAR of 2.5:1. Unless otherwise stated below, non-unit space associated with individual uses shall be attributable to the individual FAR allowance. Unless otherwise stated below, a development's non-unit space shall not count towards the FAR cap of an individual use category; however, the maximum FAR cap for the parcel shall not be exceeded. Achieving the maximum floor area ratio is subject to compliance with applicable design standards, view plane requirements, public amenity requirements and other dimensional standards. Accordingly, the maximum FAR is not an entitlement and is not achievable in all situations.

a. Commercial uses; arts, assembly, cultural, civic and community uses; public uses; academic uses; child care centers; commercial parking facility: 1:1.

b. Lodging units, timeshare lodging units and exempt timesharing units: 2:1.

c. Affordable multi-family housing: .25:1, which may be increased by special review, pursuant to Section 26.430.d

d. Free-market multi-family housing: .25:1. All non-unit space attributable to Free-Market Multi-Family Housing shall count towards the individual FAR allowance for Free-Market Multi-Family Housing.

12. Maximum Residential Unit Size (square feet): 1,500 sq. ft. of net livable area.

a. The property owner may increase individual multi-family unit size by extinguishing historic transferable development right certificates ("certificate" or "certificates"), subject to the following:

1) The transfer ratio is five hundred (500) square feet of net livable area for each certificate that is extinguished.

2) The additional square footage accrued may be applied to multiple units. However, the maximum individual unit size attainable by transferring development rights is 2,000 sq. ft. of net livable area (i.e., no more than 500 additional square feet may be applied per unit).

3) This incentive applies only to individual unit size. Transferring development rights does not allow an increase in the FAR of the lot.
Commentary: Refer to Chapter 26.535 for the procedures for extinguishing certificates

E. **Special review for density standard.** The Planning and Zoning Commission may approve an adjustment of the "density standard," and the project shall remain qualified for the growth management incentives associated with this standard. The review shall be pursuant to the review procedures for special review, Chapter 26.430, and the following criteria:

1. The density standard may be amended by a maximum of 10% to one lodge unit per 550 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

F. **Compliance with City of Aspen Charter.** Any property located east of the Castle Creek River that was in the Lodge (L) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, *Voter authorization of certain land use approvals*, of the City of Aspen Charter.

26.710.220 Conservation (C).
A. Purpose. The purpose of the Conservation (C) Zone District is to provide areas of low density development to enhance public recreation, conserve natural resources, encourage the production of crops and animals and to contain urban development.

B. Permitted uses. The following uses are permitted as of right in the Conservation (C) Zone District:

1. Detached residential dwelling.
2. Park, playfield, playground and golf course.
5. Crop production orchards, nurseries, flower production and forest land.
6. Pasture and grazing land.
7. Dairy.
8. Fishery.
10. Husbandry services (not including commercial feedlots) and other farm and agricultural uses.
11. Railroad right-of-way, but not a railroad yard.
12. Home occupations.
13. Accessory buildings and uses.
14. Accessory dwelling units meeting the provisions of Section 26.520.040.
15. Temporary special events associated with ski areas including, but not limited to, such events as ski races, bicycle races and concerts; with Special Event Committee approval.

C. Conditional uses. The following uses are permitted as conditional uses in the Conservation (C) District, subject to the standards and procedures established in Chapter 26.425.

1. Guest ranches.
2. Recreational uses including a riding academy, stable, club, country club and golf course.
3. Ski lift and other ski facilities.
4. Sewage disposal area.
5. Water treatment plant and storage reservoir.

6. Electric substations and gas regulator stations (not including business or administration offices).

D. **Dimensional requirements.** The following dimensional requirements shall apply to all permitted and conditional uses in the Conservation (C) Zone District.

1. **Minimum Gross Lot Area (acres):** 10.

2. **Minimum Net Lot Area per dwelling unit (acres):** 10

3. **Minimum lot width (feet):** 400.

4. **Minimum front yard setback (feet):** 100.

5. **Minimum side yard setback (feet):** 30.

6. **Minimum rear yard setback (feet):** 30.

7. **Maximum height:** twenty-five (25) feet.

8. **Minimum distance between principal and accessory buildings (feet):** No requirement.

9. **Percent of open space required for building site:** No requirement.

10. **External floor area ratio:** (applies to conforming and nonconforming lots of record):
    
    same as R-15 Zone District.

A. Purpose. The purpose of the Academic (A) Zone District is to establish lands for education and cultural activities with attendant research, housing and administrative facilities. All development in the Academic Zone District shall be in compliance with a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

B. Permitted uses. The following uses are permitted as of right in the Academic (A) Zone District:

1. Private school or university, teaching hospital, research facility or testing laboratory, provided that such facilities are enclosed and there are no adverse noise or environmental effects.
2. Auditorium and other facilities for performances and lectures.
3. Gallery;
4. Museum;
5. Library;
6. Administrative offices.

C. Conditional uses. The following uses are permitted as conditional uses in the Academic (A) Zone District, subject to the standards and procedures established in Chapter 26.425.

1. Boardinghouse and dormitory for housing students and faculty of schools and other academic institutions;
2. Student health care facility; and
3. Student and faculty dining hall.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Academic (A) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No.36-2013, §18)
26.710.240 Park (P).

A. **Purpose.** The purpose of the Park (P) Zone District is to ensure that land intended for recreation use is developed so as to serve its intended use, while not exerting a disruptive influence on surrounding land uses.

1. When a Park (P) Zone District is designated with a Transportation Overlay (T) Zone District designation, its purpose is to provide for the use of for both parks and public transportation facilities in the most compatible manner practicable, but with the park character remaining dominant.

2. When a Park (P) Zone District is designated with a Drainage Overlay (D) Zone District designation, its purpose is to provide for the use of both park and drainage system facilities in the most compatible manner practicable, with the park character remaining dominant.

3. When the Park (P) Zone District is designated both with the Transportation Overlay (T) Zone District and the Drainage Overlay (D) Zone District, its purpose is to provide for the use of parks, public transportation facilities and drainage system facilities in the most compatible manner practicable, with the park character remaining dominant.

4. When the Park (P) Zone District is designated Golf Course Support (GCS) Overlay Zone District, its purpose is to provide for the use of public golf courses and adjacent support facilities in the most compatible manner practicable, with the park character remaining dominant.

B. **Permitted uses.** The following uses are permitted as of right in the Park (P) Zone District:

1. Open-use recreational facility, park, playfield, playground, swimming pool, golf course, riding stable, nursery, botanical garden; and

2. Accessory buildings and uses.

C. **Conditional uses.** The following uses are permitted as conditional uses in the Park (P) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Recreation building.

2. Sport shop.

3. Restaurant facility.

4. Park maintenance building.

5. Farmers' market, as defined in Section 26.04.100, provided:

   a. It operates no more than two (2) days per week, unless modified by the Commission under the conditional use review;
b. It opens to the public no earlier than 7 a.m. and closes no later than 2 p.m., unless modified by the Commission under the conditional use review; and

c. It shall be limited to those weeks that fall between the first Saturday in June and the weekend following the Thanksgiving holiday, inclusive, unless modified by the Commission under the conditional use review.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Park (P) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No. 36-2013, § 19)
26.710.250 Public (PUB).

A. Purpose. The purpose of the Public (PUB) Zone District is to provide for the development of governmental, quasi-governmental and nonprofit facilities for cultural, educational, civic and other nonprofit purposes.

B. Permitted uses. The following uses are permitted as of right in the Public (PUB) Zone District:

1. Library;
2. Museum;
3. Post office;
4. Hospital;
5. Essential governmental and public utility uses, facilities, services and buildings (excluding maintenance shops);
6. Public transportation stop;
7. Terminal building and transportation-related facilities;
8. Public surface and underground parking areas;
9. Fire station;
10. Public and private school;
11. Public park;
12. Arts, cultural and recreational activities, buildings and uses;
13. Accessory buildings and uses;
14. Public and private nonprofit uses providing a community service; and
15. Child care center.

C. Conditional uses. The following uses are permitted as conditional uses in the Public (PUB) Zone District, subject to the standards and procedures established in Chapter 26.425.

1. Maintenance shop.
2. Affordable housing.

D. Dimensional requirements. The dimensional requirements which shall apply to all permitted and conditional uses in the Public (PUB) Zone District shall be set by the adoption of a Final Planned Development approval granted pursuant to the provisions of Chapter 26.445, Planned Development.

(Ord. No. 42-2000, § 2; Ord. No. 36-2013, §20)
26.710.260 Open Space (OS).
A. Purpose. The purpose of the Open Space (OS) Zone district is to preserve, protect and enhance lesser developed or undeveloped areas within the City containing unique naturally occurring or manmade landscape features which provide visual relief and enjoyment while reflecting or presenting community artistic or architectural statements. Development in the Open Space (OS) Zone District should emphasize and be consistent with the natural dynamic state of the land and minimize disruption of existing natural conditions.

B. Permitted uses. The following uses are permitted as of right in the Open Space (OS) Zone District:

1. Paved and unpaved walkways.
2. Benches.
4. Water features such as ponds, streams or fountains.
5. Architectural lighting and downcast low-illumination lighting for walkways and trails.
6. Sculptured or manicured landscape features.
7. Fencing.

C. Conditional uses. None.

A. Purpose. The purpose of the Wildlife Preservation (WP) Zone District is to secure and protect undeveloped or less developed areas within the City from traditional development activities so as to provide for the nurturing and preservation of naturally occurring vegetation, topography, wildlife and wildlife habitat while permitting controlled and limited human use and activities.

B. Permitted uses. The following uses are permitted as of right in the Wildlife Preservation (WP) Zone District:

1. Unpaved walkways and trails.
2. Benches.
3. Pedestrian bridges.

C. Conditional uses. The following uses are permitted as conditional uses in the Wildlife Preservation (WP) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Paved walkways and trails.
2. Fencing.
26.710.280  **Transportation Overlay (T) Zone District.**

A. **Purpose.** The purpose of the Transportation Overlay (T) Zone District is to provide for the uses necessary to accommodate the public transportation needs of the City, including the bus system, public parking and similar uses.

B. **Permitted uses.** The following uses are permitted as of right in the Transportation Overlay (T) Zone District:

1. Public transportation facilities, including bus stops and other transit stops.
2. Terminal buildings.
3. Transportation information and other service related facilities.
4. Public underground parking structures.
5. The permitted uses of the underlying Zone District.

C. **Conditional uses.** There are no uses permitted as conditional uses in the Transportation Overlay (T) District, except the conditional uses of the underlying Zone District.

D. **Dimensional requirements.** The dimensional requirements for all uses in the Transportation Overlay (T) Zone District, shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.290 Drainage Overlay (D) Zone District.
A. Purpose. The purpose of the Drainage Overlay (D) Zone District is to provide for the uses necessary to accommodate the water draining from Aspen Mountain, as well as to retain the drainage discharging from the City's drainage system.

B. Permitted uses. The following uses are permitted as of right in the Drainage Overlay (D) Zone District:

1. All uses required by the City Runoff Management Plan, including conduits, swales, retention ponds and appurtenances.
2. The permitted uses of the underlying Zone District.

C. Conditional uses. There are no uses permitted as conditional uses in the Drainage Overlay (D) Zone District, except the conditional uses allowed in the underlying Zone District.

D. Dimensional requirements. The dimensional requirements for all uses in the Drainage Overlay (D) Zone District shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.300 Golf Course Support Overlay (GCS) Zone District.

A. Purpose. The purpose of the Golf Course Support Overlay (GCS) Zone district is to provide for the uses necessary to support the City Golf Course and to permit such other uses as may be required for the facility on a year round basis.

B. Permitted uses. The following uses are permitted as of right in the Golf Course Support Overlay (GCS) Zone District:

1. Lodge;
2. Conference facilities;
3. Restaurant and bar;
4. Sport shop;
5. Golf and maintenance facilities;
6. Active recreational facilities such as tennis courts and swimming pools;
7. Housing for lodge employees;
8. Parking lot; and
9. The permitted uses of the underlying Zone District.

C. Conditional uses. There are no uses permitted as conditional uses in the Golf Course Support Overlay (GCS) Zone District, except the conditional uses of the underlying Zone District.

D. Dimensional requirements. The dimensional requirements for all uses in the Golf Course Support Overlay (GCS) Zone District shall be the dimensional requirements established for those uses in the underlying Zone District.
26.710.310 Lodge Overlay (LO) Zone District.

A. Purpose. The purpose of the Lodge Overlay (LO) Zone District is to provide for lodge uses and Short-term Rentals in areas of the City suitable for lodge accommodations but which lie in predominantly residential neighborhoods or where there are limitations on development that necessitate the permitted density to be significantly less than that in the City's other lodge Zone Districts.

B. Permitted uses. The following uses are permitted as of right in the Lodge Overlay (LO) Zone District:

1. The uses permitted in the underlying zone district.
2. Hotel or lodge.
3. Timeshare lodge.
4. Exempt timesharing.
5. Bed and breakfast.
6. Offices and activities accessory to timeshare unit sales (see Chapter 26.590).
7. Conference facilities.
8. Uses associated with outdoor recreation facilities and events.
9. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
10. Storage accessory to a permitted use.
11. Deed-Restricted Affordable Housing accessory to a lodging or timeshare operation and for employees of the operation.
12. Affordable multi-family housing (as a single use)

C. Conditional uses. The following uses are permitted as conditional uses in the Lodge Overlay (LO) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. The uses allowed as conditional uses in the underlying zone district.
2. Affordable housing intended for the general public.
3. Restaurant.
4. Lodge, Boutique.
D. Dimensional requirements. The dimensional requirements for all uses in the Lodge Overlay (LO) Zone District shall be the dimensional requirements established for those uses in the underlying zone district. Where no specific dimensions have been established for the use, the permitted dimensions shall be limited to that of a single-family residence or multi-family residences where such uses are permitted in the underlying zone district. Upon consideration of the neighborhood compatibility and the dimensional requirements of surrounding zone districts, the dimensional requirements may be established pursuant to Chapter 26.445 - Planned Development.

As part of the PD review, an adjustment of the "density standard" may be approved, and the project shall remain qualified for the growth management incentives associated with this standard. The review shall consider the following criteria:

1. The density standard may be amended by a maximum of 20% to one lodge unit per 600 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

The amount of associated free-market residential floor area to be included in a lodging project shall be as defined in the Lodge (L) Zone District, Subparagraph 26.710.190.D.11.a.5.

E. Compliance with City of Aspen Charter. Any property located east of the Castle Creek River that was in the Lodge Overlay (LO) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

26.710.320 Lodge Preservation Overlay (LP) Zone District.

A. Purpose. The purpose of the Lodge Preservation (LP) Overlay Zone District is to provide for and protect small lodge uses on properties historically used for lodge accommodations, to permit redevelopment of these properties to accommodate lodge and affordable housing uses, to provide uses accessory and normally associated with lodge and affordable housing development, to permit Short-term Rentals of residential units, to encourage development which is compatible with the neighborhood and respective of the manner in which the property has historically operated and to provide an incentive for upgrading existing lodges on site or onto adjacent properties.

B. Permitted uses. The following uses are permitted as of right in the Lodge Preservation (LP) Overlay Zone District:

1. The uses permitted in the underlying zone district.
2. Hotel or lodge.
3. Timeshare lodge.
4. Exempt timesharing.
5. Bed and breakfast.
6. Dormitory.
7. Offices and activities accessory to timeshare unit sales (see Chapter 26.590).
8. Conference facilities.
9. Uses associated with outdoor recreation facilities and events.
10. Accessory uses and structures. (Food service for on-site lodge guests is an accessory use.)
11. Storage accessory to a permitted use.
12. Affordable housing accessory to a lodging or timeshare operation and for employees of the operation.
13. Affordable multi-family housing (as a single use)

C. Conditional uses. The following uses are permitted in the Lodge Preservation (LP) Overlay Zone District, subject to the standards and procedures established in Chapter 26.425 of this Code:

1. The uses allowed as conditional uses in the underlying zone district.
2. Restaurant.
3. Lodge, Boutique.

D. Dimensional requirements. The dimensional requirements for all uses in the Lodge Preservation (LP) Overlay Zone District shall be the dimensional requirements established for those uses in the underlying zone district. Where no specific dimensions have been established for the use, the permitted dimensions shall be limited to that of a single-family residence or multi-family residences where such uses are permitted in the underlying zone district. Upon consideration of the neighborhood compatibility and the dimensional requirements of surrounding zone districts, the dimensional requirements may be established pursuant to Chapter 26.445 - Planned Development.

As part of the PD review, an adjustment of the "density standard" may be approved, and the project shall remain qualified for the growth management incentives associated with this standard. The review shall consider the following criteria:

1. The density standard may be amended by a maximum of 20% to one lodge unit per 600 square feet of Gross Lot Area. An adjustment in excess of this increase may be approved through adoption of a PD plan, but the project shall no longer be qualified for the associated incentives.

2. The project includes a generous amount of non-unit space, amenities and services for guests of the lodging operation. This can include both internal and external amenities.

3. The project provides a range of unit sizes and configurations to be attractive to a broad segment of potential guests. Flexible units are encouraged.

The amount of associated free-market residential floor area to be included in a lodging project shall be as defined in the Lodge (L) Zone District - Section 26.710.190.D.11.a.5.

E. Compliance with City of Aspen Charter. Any property located east of the Castle Creek River that was in the Lodge Preservation Overlay (LP) zone district on January 1, 2015, is subject to the provisions of Article XIII Section 13.14, Voter authorization of certain land use approvals, of the City of Aspen Charter.

26.710.330  Ski Area Base (SKI).

A.  **Purpose.**  The purpose of the Ski Area Base (SKI) Zone District is to provide for areas which allow for a mixture of uses related to ski area uses and operations including, skiing and appurtenant uses and structures, ski area administrative offices, recreation, lodge/hotel, retail, restaurant and bar uses, tourist-oriented service uses, residential uses, and Short-term Rentals. It is intended that this Zone District will apply to areas located at the base of ski areas and all development within this district will be master planned through a planned development (PD) process.

B.  **Permitted uses.**  The following uses are permitted as of right in the Ski Area Base (SKI) Zone District:

1.  Alpine and Nordic ski areas, related uses and support facilities typically associated with the uses and operations of ski areas.
2.  Lodge units.
3.  Hotel.
5.  Detached residential or duplex dwellings.
6.  Dining rooms, customary accessory commercial uses, laundry and recreational facilities located on the same site of and for guests of lodge units, hotels and dwelling units.
7.  Accessory residential dwellings restricted to Affordable Housing Guidelines and Section 26.520.040.
8.  Ski area administrative offices.
9.  Restaurants and bars.
10. Special events associated with ski areas including such events as ski races, bicycle races and concerts; with special event committee review.
11. Parks, outdoor recreational uses and trails.
12. Recreational facility.
13. Retail establishments.
15. Terminal building and transportation related facilities.
16. Medical clinic accessory to the ski area.
17. Fire, police and emergency services facilities.
18. Accessory buildings and uses.
19. Outdoor vendor carts or areas for food and beverages sales and preparation.

20. Timeshare lodge.


22. Short-term Rentals. Pursuant to Section 26.530

C. **Conditional uses.** The following uses are permitted as conditional uses in the Ski Area Base (SKI) Zone District, subject to the standards and procedures established in Chapter 26.425:

1. Daycare center.
2. Offices, business.
3. Public and private surface and underground parking areas.
4. Essential governmental and public utility uses, facilities, services and buildings (excluding maintenance shops).

5. Post office substation.

D. **Dimensional requirements.** The dimensional requirements which shall apply to all permitted and conditional uses in the Ski Area Base (SKI) Zone District shall be set by the adoption of a final development plan, pursuant to Chapter 26.445, of planned development.

E. **Signs.** Signs within the Ski Area Base (SKI) Zone District shall be subject to the provisions of Chapter 26.510, Signs. A sign master plan may be approved in conjunction with a PD review process allowing for the establishment of dimensional and quantity sign standards for the PD.

(Ord. No. 35-2000, §1; Ord. No. 21-2002 §§5, 6 [part]; Ord. No.34-2011, §21)

A. Purpose. The purpose of the Essential Business Overlay (EBO) Zone District is to encourage businesses that accommodate the basic consumer needs of Aspen residents and visitors. The EBO provides alternative use standards from the underlying zoning to allow redevelopment to create spaces useful to locally serving, non-traditional or other uses not anticipated in the zoning code. The EBO also provides opportunities for public-private partnerships, where agencies and developers partner to create useful, non-traditional spaces, including live-work, business incubators and other mixed-use development models. This zone is a voluntary overlay that may be applied to properties in the S/C/I and NC zones to enable quality redevelopment and achieve desired use and design outcomes. The EBO is applied through the rezoning process. Approval is contingent upon meeting the criteria in Section 26.310.

B. Permitted and conditional uses.

1. Permitted Uses: Those allowed in the underlying zone district. In addition, General Retail uses, Service/Commercial/Industrial uses, Service uses, and farmer’s markets are permitted uses.

2. Conditional Uses: Those allowed as conditional uses in the underlying zone district, as well as restaurant, bar, and entertainment uses for the SCI zone district.

3. Residential uses are not permitted in the EBO Zone, unless the uses are accessory to a commercial use on the property or part of a live-work arrangement where the predominant uses on the site are commercial, and the uses are approved as a condition of rezoning (see subsection C.2 below). The EBO zone may not be applied to an existing residential use, unless the applicant for rezoning enters into a binding commitment to demolish or redevelop the residential uses for a use permitted in the EBO Zone, or the residential use is approved as part of the rezoning.

C. Dimensional requirements. The dimensional requirements for all uses in the Essential Business Overlay (EBO) Zone District shall be the dimensional requirements established for those uses in the underlying zone district, except as provided below.

1. The following dimensional standards apply:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Gross Lot Area (square feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum Net Lot Area per dwelling unit (square feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum lot width (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum front yard setback (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum side yard setback (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum rear yard setback (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Minimum Utility/Trash/Recycle area:</td>
<td>Pursuant to Chapter 12.06.</td>
</tr>
<tr>
<td>Maximum height:</td>
<td>Limited to underlying zoning.</td>
</tr>
<tr>
<td>Minimum distance between buildings on the lot (feet):</td>
<td>No requirement.</td>
</tr>
<tr>
<td>Pedestrian Amenity Space:</td>
<td>Pursuant to Section 26.412.</td>
</tr>
<tr>
<td>Floor Area Ratio (FAR):</td>
<td>Limited to underlying zoning.</td>
</tr>
<tr>
<td>Minimum Commercial FAR</td>
<td>1:1</td>
</tr>
</tbody>
</table>

2. The applicant may apply for alternative dimensional requirements as a condition of rezoning, taking into consideration neighborhood compatibility and the dimensional requirements of
surrounding zone districts. Under no circumstances shall the overall FAR allowed in the underlying zone district be exceeded. In addition, no reductions in required mitigation may be requested through the EBO rezoning.

D. Transportation and Parking Management. See Chapter 26.515, except that the maximum spaces allowed (Section 26.515.040.E, Table 26.515-1) do not apply to the EBO district.

(Ord. No. 29, 2016, §6)

Section 1214: The Residential Demolition and Redevelopment Standards shall be adopted as follows:

Residential Demolition and Redevelopment Standards

Purpose: The City of Aspen has various sustainability, affordable housing, and construction policies and goals to address the impacts of construction and development. The Residential Demolition and Redevelopment Standards seek to supplement existing policies in the Land Use Aspen Municipal Code, stated goals of the City of Aspen City Council, and community goals as stated in the Aspen Area Community Plan to ensure residential construction activity for single family and duplex residential development is meeting regulatory requirements, community expectations, and resulting in high quality design.

Intent: The intent of the Residential Demolition and Redevelopment Standards is to ensure complex projects with significant community, construction, and environmental impacts are designed in a manner that mitigates those impacts. The standards seek to ensure that projects reduce environmental impacts, energy consumption, and carbon footprint. Single-family and duplex residential structures should be designed in a way that exceeds industry standards in building performance. The design and ongoing operations of these structures should:

- Reduce reliance on sources of energy that rely on fossil fuels
- Source sustainable materials
- Implement smart technology to reduce operational energy demands
- Support the implementation of fully electric heating and cooling systems
- Reduce the demands of luxury loads (including audio visual systems, lighting, security systems, snowmelt, etc.)
- Offset carbon or energy demands through onsite energy production
- Reduce water consumption
- Divert waste from the landfill by reusing and recycling materials.

Where no specific or applicable rules, regulations or standards appear to be set forth in the Residential Demolition and Redevelopment Standards, or other rules, regulations, standards, guidelines, and recommended practices, as published by professional associates, technical organizations, model code groups, and similar entities, may be used by the City for guidance.

Adoption of Residential Demolition and Redevelopment Standards: Pursuant to the powers and authority conferred by the Charter of the City, the City Council hereby adopts and incorporates by reference redevelopment standards, hereinafter referred to as the Residential Demolition and Redevelopment Performance Standards, which are incorporated by reference into the City of Aspen Land Use Code. The Residential Demolition and Redevelopment Standards set forth the design parameters to ensure residential
redevelopment improves solid waste diversion, increases the energy efficiency of structures, and reduces negative impacts of construction. The Residential Demolition and Redevelopment Standards may be amended, updated, and expanded from time to time by City Council Resolution. The Residential Demolition and Redevelopment Standards shall be available for public inspection at the Community Development Department’s web page. Projects that are pursuing a Demolition Allotment as described in Section 26.470.090.C will be reviewed according to these standards.

(Ord. 13, Series of 2022).

**Applicability:** These Residential Demolition and Redevelopment Standards shall be used to evaluate projects that trigger Demolition as defined by Section 26.104.100 and Section 26.580 of the Land Use Code. These Residential Demolition and Redevelopment Standards shall be the basis for determining a project’s compliance with the review criteria for projects requesting a Demolition allotment pursuant to Land Use Code Section 26.470.090.C. A project must meet the Residential Demolition and Redevelopment Standards in effect at the time of building permit submission and the land use application is deemed complete.

**Review Authority:** The Community Development and Engineering Departments, or designee, is authorized to enforce the rules and regulations contained in the Residential Demolition and Redevelopment Standards in order to carry out the intent of the standards and requirements of the Municipal Code.

**Exemptions:** The Community Development Director may exempt the following development activities from a portion or all of the requirements below:

1. The property is a Historically Designated landmark and compliance with some, or all, of the requirement of these standard is not practical. If this is the case, at the discretion of the Community Development Director, with a recommendation from the Historic Preservation Officer, some or all requirements may be exempted from a project. The applicant must provide a report and summary of what requirements cannot be met, identify the specific constraint, and alternative design elements that are proposed to offset the lack of compliance. Alternatives could include improved thermal envelopes, energy efficient equipment, additional renewable energy offsets, etc.
2. Projects where 100% of the units are currently, or proposed to be, deed restricted with the Aspen Pitkin County Housing Authority.
3. When a project proposes to demolish and revegetate a site, with no new development proposed, the demolition of the structure is subject to waste diversion requirements, but any requirements applicable to the new structure may be waived. An approved demolition and revegetation permit is required. Upon redevelopment of the site with a new structure, the new structure will be subject to the requirements of Section 26.580 and Section 26.470.090.C, as amended and subject to vesting requirements of the code. All timing and code requirements will be memorialized as a condition of approval.

**Requirements:** Projects that trigger Demolition and are seeking a Demolition Allotment pursuant to Section 26.470.090.C must satisfy the following required Performance Elements prior to building permit issuance and will be included as a condition of approval:

1. **Waste Diversion:** All projects are required to source separate non-hazardous waste materials and divert a minimum of 35%, by weight, from the landfill. Materials may be salvaged or recycled to meet the waste diversion requirements. This will be included as a condition of approval to be met prior to building permit issuance and prior to final inspection, and shall be documented in the Construction Management Plan.
A. Recyclable/diverted materials may include:
   i. Asphalt,
   ii. Clean concrete,
   iii. Metals,
   iv. Wood,
   v. Single stream recyclables,
   vi. Gypsum board, and/or
   vii. Carpet.

*A final determination of actual recyclable materials will be based on the local recycling facility capability.

B. A construction waste management plan may include salvage for resale, salvage and reuse (on or off site), recycling, and/or disposal.

C. The project must track all waste materials by type through the WasteTracking (formerly Green Halo) System. All waste must be quantified by weight or volume, but the same units of measure must be used through the project.

D. All waste generated by the project that is to be included as diverted waste to meet the minimum diversion requirements shall be recycled at the Pitkin County Landfill, or another approved recycling facility as approved by the Construction Mitigation Officer.

E. A Waste Management Plan shall be included as part of the Construction Management Plan to be approved prior to building permit issuance.
   i. Waste reduction calculations, including anticipated rates for salvage, recycling, and disposal as a percentage of total waste generated by the work, using the WasteTracking/Green Halo system. The waste management plan must indicate anticipated types and quantities of demolition and construction waste generated by the work, including estimated quantities and assumptions.
   ii. Plan implementation: The project must maintain logs of each load including:
      1. Type of Load,
      2. Load weight,
      3. Name of hauling service,
      4. Landfill or recycling center, and
      5. Date accepted by the recycling center or landfill.
   iii. A final waste diversion report shall be submitted as part of the Final Inspections for the project prior to issuance of a Certificate of Occupancy.
      1. The final waste diversion report shall include recycling and processing facility records that indicate acceptance of recyclable waste by recycling and processing facilities, and other records including sales and donations as applicable and required to substantiate conformance with waste diversion requirements.

2. Embodied Carbon: Environmental Product Declaration (EPD) Disclosure. Product-specific Type III EPDs shall be submitted for 50% of steel and concrete. EPDs used for compliance with this section shall be certified as complying with the goal and scope for the cradle-to-gate requirements in accordance with ISO Standards 14025 and 21930 and be available in a publicly accessible database.
3. **Energy Reporting:** All projects that trigger Demolition are subject to Section 8.60 – Building IQ of the Aspen Municipal Code and shall follow the requirements for a “Non-City Covered Property.” The Single-Family and Duplex structures subject to these Redevelopment Requirements shall comply with the requirements of the Multi-Family Residential structures over 15,000 square feet. This will be included as a condition of approval. This requirement shall supersede the applicability statements in Section 8.60.030 and the exceptions listed in Section 8.60.020.M, as amended.

4. **Building Energy Performance:** Projects are subject to shall comply with the requirements of the Supplemental Building Code requirements attached as Appendix A to the *Residential Demolition and Redevelopment Standards*.

5. **Engineering:** In addition to compliance with all applicable requirements of the URMP, CMP, and the Engineering Design Standards, the project shall meet the following requirement:

   A. Runoff from 50% of the site impervious area shall be treated in above grade sustainable Best Management Practices (BMPs) such as bioretention areas, pervious pavers, tree canopy, grass buffer or other approved above grade BMPs as outlined in the URMP. 50% of the site’s impervious area is permitted to be treated in subsurface BMPs.

**Alternative Compliance:** A project may request variations from these standards if the Planning and Zoning Commission makes a determination the project meets the review criteria for Special Review (Section 26.430.040.J).

**Amendments:** Any future amendments to the *Residential Demolition and Redevelopment Standards* shall be made by City Council via Resolution.

**Violations and Penalties:** Any person violating any provision of these standards may be punished by a fine, imprisonment or both a fine and imprisonment, as set forth in Section 1.04.080 of the City of Aspen Municipal Code. Each day any violation of this Chapter shall continue shall constitute a separate offense.

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**RESIDENTIAL DEMOLITION ALLOTMENT MIXED FUEL LOW CARBON APPENDIX**

Residential demolition allotment new one- and two-family dwellings shall comply with the 2015 Building Codes as adopted by the City of Aspen with the following amendments. These amendments shall not apply to additions or renovations. This
SECTION C408

SYSTEM COMMISSIONING

C408.1 General. This section covers the commissioning of the building mechanical systems such as heating, cooling, ventilation, and snowmelt in Section C403 and electrical power and lighting systems in Section C405.

C408.2 Mechanical systems and service water-heating systems commissioning and completion requirements.

Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section.

Construction document notes shall clearly indicate provisions for commissioning and completion requirements in accordance with this section and are permitted to refer to specifications for further requirements. Copies of all documentation shall be given to the owner or owner’s authorized agent and made available to the code official upon request in accordance with Sections C408.2.4 and C408.2.5.

Exceptions: The following systems are exempt:

1. Mechanical systems and service water heater systems in buildings where the total mechanical equipment capacity is less than 480,000 Btu/h (140.7 kW) cooling capacity and 600,000 Btu/h (175.8 kW) combined service water-heating and space-heating capacity.

2. Systems included in Section C403.3 that serve individual dwelling units and sleeping units.

R202 Definitions

APPLIANCE. A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

COMBUSTION EQUIPMENT. Any equipment or appliance used for space heating, service water heating, cooking, clothes drying, or lighting that uses fuel gas or fuel oil.

ELECTRIC VEHICLE (EV). An automotive-type vehicle for on-road use, such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, electric motorcycles, and the like, primarily powered by an electric motor that draws current from a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles having a second source of motive power. Off-road, self propelled mobile equipment, such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats and the like, are not considered electric vehicles.

ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE). The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

EQUIPMENT. Piping, ducts, vents, control devices and other components of systems other than appliances that are permanently installed and integrated to provide control of environmental conditions for buildings. This definition shall also include other systems specifically regulated in this code.

EV-READY SPACE. A parking space that is provided with an electrical circuit capable of supporting an installed EVSE.

SOLAR-READY ZONE. A section or sections of the roof or building overhang designated and reserved for the future installation of a solar photovoltaic or solar thermal system.

R401.2 Compliance. New projects shall comply with R401 through R404.

TABLE R402.1.2

INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT
R402.1.5 “Total UA Alternative”

a. If the total building thermal envelope UA (sum of U-factor times assembly area) is less than or equal to the total UA resulting from using the U-factors in Table R402.1.4, as amended, (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with amended Table R402.1.2. The UA calculation shall be done using a method consistent with the ASHRAE Handbook of Fundamentals and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance.

b. If using RE-Scheck software to show compliance with this alternative path for the 2015 edition of the code, the proposed design must be a minimum of 2% 30% more efficient than the standard reference design in order to accommodate the amended prescriptive Fenestration U-factor.

R402.3.6 Maximum area. The vertical fenestration area, not including opaque doors and opaque spandrel panels, shall be not greater than 2030 percent of the gross above grade wall area. The skylight area shall be not greater than 3 percent of the gross roof area.

R402.4.1.2 Testing. The building or dwelling unit shall be tested for air leakage. The maximum air leakage rate for any building or dwelling unit shall not exceed 1.5 air changes per hour. Testing shall be conducted in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope have been sealed.

R403.5 Service hot water systems. Energy conservation measures for service hot water systems shall be in accordance with Sections R403.5.1 and R403.5.4 through R403.5.5.

R403.5.5 Combustion service hot water heating. Combustion equipment may not be used for service hot water heating unless the following conditions are met:

1. The service hot water system shall comply with the provisions of C408, and

2. Each piece of equipment shall be provided with the following:
a. A condensate drain that is no more than 2 inches higher than the base of the installed water heater and allows natural draining without pump assistance shall be installed within 3 feet of the water heater.

b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for comparable heat pump(s) and, if specified in the design, supplemental electric resistance heat service water heating capacity and recovery, terminating within 3 feet of the water heater with no obstructions. Both ends of the branch circuit(s) shall be labeled with the words “For Future Electric Service Water Heating” and be electrically isolated.

c. The equipment shall be installed in a space sized to fit future equivalent electric heat pump(s) and, if specified in the design, supplemental electric resistance heat service water heating equipment or a minimum 3 feet by 3 feet by 7 feet high (per heat pump), whichever is larger.

d. Water heaters shall be installed in a space with a minimum volume of 700 cubic feet or with the equivalent of one 16-inch by 24-inch grill to a heated space and one 8-inch duct of no more than 10 feet in length for cool exhaust air.

R403.6.2 Heat or energy recovery ventilation. Dwelling units shall be provided with a heat recovery (HRV) or energy recovery (ERV) ventilation system. The system shall be balanced to within 10% of the average supply and exhaust rates. Minimum HRV and ERV requirements, measured at the lowest tested net supply airflow, shall be greater than or equal to 65 percent Sensible Recovery Efficiency (SRE), a minimum 1.2 cubic feet per minute per watt determined at a static pressure of not less than 0.2 inch w.c. (49.85 Pa), and shall not use recirculation as a defrost strategy.

R403.9 Snow and ice melt systems Snow- and ice-melting systems shall comply with R403.9.1 through R403.9.3.

R403.9.1 Efficiency. Combustion equipment may not be used for snow and ice melt systems unless the following conditions are met:

1. The snowmelt system shall comply with the provisions of C408, and
2. Each piece of equipment shall be provided with the following:
   a. A condensate drain located within 3 feet, and
   b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for a comparable electric hydronic snowmelt system sized in accordance with NEC 440.4(B) and 440.35, and terminating within 3 feet of the heating equipment with no obstructions. Both ends of the branch circuit shall be labeled “For Future Electric Snowmelting” and be electrically isolated.

R403.9.2 Controls. Systems shall include automatic controls capable of shutting configured to shut off the system when the pavement temperature of the snowmelted surface is greater than 50°F (10°C) and precipitation is not falling, and an automatic or manual control that will allow shutoff when the outdoor temperature is greater than 40°F (4.4°C).

R403.9.3 Snow Melt Slab Insulation. R-10 insulation shall be installed under the snow melted surface.

R403.9.4 Maximum area. The snow melted area shall not be greater than 2,500 square feet per parcel.

R403.10 Pools and permanent spa energy consumption (Mandatory). The energy consumption of pools and permanent spas shall be in accordance with Sections R403.10.1 through R403.10.3.

R403.10.1 Heaters. The electric power to heaters shall be controlled by an on-off switch that is an integral part of the heater mounted on the exterior of the heater in a location with easy access, or external to and within 3 feet (914 mm) of the heater. Operation of such switch shall not change the setting of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with continuously burning ignition pilots. Combustion equipment may not be used for pool or spa heating unless the following conditions are met:

1. Heaters shall not be equipped with continuously burning ignition pilots.
2. Each piece of combustion equipment shall be provided with the following:
   a. A condensate drain located within 3 feet, and
   b. A dedicated, appropriately phased branch circuit that shall have a minimum amperage requirement for a
comparable electric heater, sized in accordance with NEC 440.4(B) and 440.35, terminating within 3 feet of the heating equipment with no obstructions. Both ends of the branch circuit shall be labeled “For Future Electric Pool Heating” and be electrically isolated.

R403.13 Heating outside a building. Systems installed to provide heat outside a building shall be electric radiant systems. Such heating systems shall be controlled by an occupancy sensing device or a timer switch, so that the system is automatically de-energized when occupants are not present.

R403.14 Combustion space heating. Combustion equipment may not be used for primary space heating unless the following conditions are met:

1. The space heating system(s) shall comply with the provisions of C408, and
2. Each piece of equipment shall be provided with the following:
   a. A condensate drain located within 3 feet, and
   b. A dedicated, appropriately phased branch circuit(s) that shall have a minimum amperage requirement for a comparable electric heat pump and, if specified in the design, electric resistance supplemental heat sized in accordance with NEC 440.4(B) and 440.35, and terminating within 3 feet of the heating equipment with no obstructions. Both ends of the branch circuit(s) shall be labeled “For Future Electric Space Heating” and be electrically isolated.

   Exception:
   1. Where an electrical circuit in compliance with NEC 440.4(B) and 440.35 exists for space cooling equipment.

R404.1 Lighting equipment. Not less than 75 percent of the lamps in permanently installed lighting fixtures shall be high-efficiency lamps or not less than 75 percent of the permanently installed lighting fixtures shall contain only high-efficiency lamps. All permanently installed lighting fixtures, excluding kitchen appliance lighting fixtures, shall contain only high-efficacy lighting sources.

R404.1.1 Lighting equipment (Mandatory). Fuel gas lighting systems shall not have continuously burning pilot lights be permitted.

R404.2 Renewable energy infrastructure. Buildings shall comply with Sections R404.4.1 through R404.4.7.

Exceptions:

1. A building with a permanently installed on-site renewable energy system.
2. A building with less than 600 square feet (55 m²) of roof area oriented between 110 degrees and 270 degrees of true north.
3. A building where all areas of the roof that would otherwise meet the requirements for a solar-ready zone are in full or partial shade for more than 70 percent of daylight hours annually.

R404.2.1 Solar-ready zone area. The total area of the solar-ready zone shall not be less than 300 square feet and shall be composed of areas not less than 5.5 feet in width and not less than 80 square feet exclusive of access or set back areas as required by the International Fire Code.

R404.2.2 Obstructions. Solar-ready zones shall be free from obstructions, including but not limited to vents, chimneys, and roof-mounted equipment.

R404.2.3 Shading. The solar-ready zone shall be set back from any existing or new permanently affixed object on
the building or site that is located south, east or west of the solar zone a distance not less than two times the object’s height above the nearest point on the roof surface. Such objects include, but are not limited to, taller portions of the building itself, parapets, chimneys, antennas, signage, rooftop equipment, trees and roof plantings.

R404.2.4 Roof load documentation. The structural design loads for roof dead load and roof live load shall be clearly indicated on the construction documents.

R404.2.5 Electrical service reserved space. The main electrical service panel shall have a reserved space to allow installation of a dual pole circuit breaker for future solar electric installation and shall be labeled “For Future Solar Electric.” The reserved space shall be positioned at the opposite (load) end from the input feeder location or main circuit location.

R404.2.6 Electrical interconnection. An electrical junction box shall be installed within 24 inches of the main electrical service panel and shall be connected to a capped roof penetration sleeve or a location in the attic that is within 3 feet (914 mm) of the solar ready zone by one of the following:

1. Installed conduit with pull string sized to accommodate future renewable energy infrastructure requirements.
2. Minimum #10 Metal copper 3-wire

Where the interconnection terminates in the attic, location shall be no less than 12” (35 mm) above ceiling insulation. Both ends of the interconnection shall be labeled “For Future Solar Electric”.

R404.2.7 Construction documentation certificate. A permanent certificate, indicating the solar-ready zone and other requirements of this section, shall be posted near the electrical distribution panel, water heater or other conspicuous location by the builder or registered design professional.

R404.3 Electric vehicle charging infrastructure. Buildings with a dedicated attached or detached garage or with on-site parking spaces shall be provided with one EV-ready space dwelling unit. The branch circuit shall meet the following requirements:

1. A minimum capacity of 9.6 kVA
2. Terminates at a junction box or receptacle located within 3 feet (914 mm) of the parking space and labelled “For electric vehicle charging”, and
3. The electrical panel directory shall designate the branch circuit as “For electric vehicle charging”.

R404.4 Energy storage infrastructure. Each building site shall have a dedicated location for the installation of future on-site energy storage in accordance with the following:

1. Dedicated floor area not less than 2 feet in one dimension and 4 feet in another dimension and located in accordance with Section 1207 of the 2021 International Fire Code and Section 110.26 of the NFPA 70.
2. The main electrical service panel shall have a reserved space to allow installation of a two-pole circuit breaker for future electrical energy storage system installation. This space shall be labeled “For Future Electric Storage.” The reserved spaces shall be positioned at the end of the panel that is opposite from the panel supply conductor connection.
3. Installed conduit with pull string sized to accommodate future energy storage electrical requirements.

Exception: Where an onsite electrical energy system storage system is installed.

R404.5 Additional electric ready infrastructure. Combustion equipment shall be installed in accordance with this section.
R404.5.1 Combustion clothes drying. A dedicated 240-volt branch circuit with a minimum capacity of 30 amps shall terminate within 6 feet (1829 mm) of natural gas clothes dryers and shall be accessible with no obstructions. Both ends of the branch circuit shall be labeled with the words “For Future Electric Clothes Drying” and be electrically isolated.

R404.5.2 Combustion cooking. A dedicated 240-Volt, 40A branch circuit shall terminate within 6 feet (1829 mm) of natural gas cooking equipment and appliances and be accessible with no obstructions. Both ends of the branch circuit shall be labeled with the words “For Future Electric Range” and be electrically isolated.

R404.5.3 Other combustion equipment. Combustion equipment and end-uses not covered by Sections R404.6.2-5 shall be provided with a branch circuit sized for an electric appliance, equipment or end use with an equivalent capacity that terminates within 6 feet (1829 mm) of the appliance or equipment. Both ends of the branch circuit shall be labeled with the words “For Future Electrification” and be electrically isolated.

INTERNATIONAL FUEL GAS CODE

Section 301.2.1 Appliance Controls. Fuel burning appliances, such as fireplaces and firepits, used for purposes other than space conditioning, water heating, snow melting, and cooking shall be controlled by an occupancy sensing device or a timer switch, so that the appliance shuts off when occupants are not present or within an hour of being turned on.

Exception: A manual override switch may be provided that, when initiated, shall permit the controlled appliance to remain on for not more than 2 hours.

INTERNATIONAL RESIDENTIAL CODE

Section R313 Automatic fire sprinkler systems. (reference Chapter 9 of the Fire Code with the exception of R313.2 as amended herein:)

R313.2 One- and two-family dwellings automatic fire systems. An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13D.

Chapter 8.49

INTERNATIONAL WILDLAND-URBAN INTERFACE CODE

Sec. 8.49.010. Adoption of the 2021 Edition of the International Wildland-Urban Interface Code. Pursuant to the powers and authority conferred by the laws of the State and the Charter of the City, there is hereby adopted and incorporated herein by reference as if fully set forth those regulations contained in the International Wildland-Urban Interface Code, 2021 Edition, and all errata as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795, except as otherwise provided by amendment or deletion as contained in Section 8.49.020 of this Chapter. At least one (1) copy of the International Wildland-Urban Interface Code shall be available for inspection during regular business hours.

Sec. 8.49.020. Amendments. The International Wildland-Urban Interface Code, 2021 Edition, as adopted by the City at Section 8.49.010, is hereby amended to provide and read as follows:

(a) Section [A]101.1 Title. These regulations shall be known as the International Wildland-Urban Interface Code of City of Aspen hereinafter referred to as “this code.”

(Delete in entirety with the exception of Section 505 as amended below and associated references.)
SECTION 505
CLASS 2 IGNITION-RESISTANT CONSTRUCTION

503.2 Ignition-resistant building material. Ignition-resistant building materials shall comply with any one of the following:

1. Material shall be tested on all sides with the extended ASTM E84 (UL 723) test or ASTM E2768, except panel products shall be permitted to test only the front and back faces. Panel products shall be tested with a ripped or cut longitudinal gap of 1/8 inch (3.2 mm). Materials that, when tested in accordance with the test procedures set forth in ASTM E84 or UL 723 for a test period of 30 minutes, or with ASTM E2768, comply with the following:
   1.1 Flame spread. Material shall exhibit a flame spread index not exceeding 25 and shall not show evidence of progressive combustion following the extended 30-minute test.
   1.2 Flame front. Material shall exhibit a flame front that does not progress more than 10 1/2 feet (3200 mm) beyond the centerline of the burner at any time during the extended 30-minute test.
   1.3 Weathering. Ignition-resistant building materials shall maintain their performance in accordance with this section under conditions of use. Materials shall meet the performance requirements for weathering (including exposure to temperature, moisture and ultraviolet radiation) contained in the following standards, as applicable to the materials and the conditions of use:
      1.3.2 ASTM D7032 for wood-plastic composite materials.
      1.3.3 ASTM D6662 for plastic lumber materials.
   1.4 Identification. Materials shall bear identification showing the fire test results.

Exception: Materials composed of a combustible core and a noncombustible exterior covering made from either aluminum at a minimum 0.019 inch (0.48 mm) thickness or corrosion-resistant steel at a minimum 0.0149 inch (0.38 mm) thickness shall not be required to be tested with a ripped or cut longitudinal gap.

2. Noncombustible material. Material that complies with the requirements for noncombustible materials in Section 202.

3. Fire-retardant-treated wood. Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code.

4. Fire-retardant-treated wood roof coverings. Roof assemblies containing fire-retardant-treated wood shingles and shakes that comply with the requirements of Section 1505.6 of the International Building Code and classified as Class A roof assemblies as required in Section 1505.2 of the International Building Code.

505.1 General. Buildings shall be of Class 2 ignition-resistant construction and shall be in accordance with Sections 505.2 through 505.11.

505.2 Roof assembly. Roofs shall have a roof assembly that complies with not less than a Class A rating when tested in accordance with ASTM E108 or UL 790, or an approved noncombustible roof covering. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space at the eave ends shall be firestopped to preclude entry of flames or embers, or have one layer of cap sheet complying with ASTM D3909 installed over the combustible roof deck.

505.2.1 Roof valleys. Where provided, valley flashings shall be not less than 0.019-inch (0.48 mm) (No. 26 galvanized sheet gage) corrosion-resistant metal installed over a minimum 36-inch-wide (914 mm) underlayment consisting of one layer of 72-pound (32.4 kg) mineral-surfaced, nonperforated cap sheet complying with ASTM D3909 running the full length of the valley.
505.3 Protection of eaves. Combustible eaves, fascias and soffits shall be enclosed with solid materials with a minimum thickness of 3/4 inch (19 mm). Exposed rafter tails shall not be permitted unless constructed of heavy timber materials.

505.4 Gutters and downspouts. Gutters and downspouts shall be constructed of noncombustible material. Gutters shall be provided with an approved means to prevent the accumulation of leaves and debris in the gutter.

505.5 Exterior walls. Exterior walls of buildings or structures shall be constructed with one of the following methods:

1. Materials approved for not less than 1-hour fire-resistance-rated construction on the exterior side.
2. Approved noncombustible materials.
3. Heavy timber or log wall construction.
4. Fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.
5. Ignition-resistant materials on the exterior side.

Such material shall extend from the top of the foundation to the underside of the roof sheathing.

505.6 Underfloor enclosure. Buildings or structures shall have underfloor areas enclosed to the ground, with exterior walls in accordance with Section 505.5.

Exception: Complete enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour fire-resistance-rated construction or heavy timber construction or fire-retardant-treated wood. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

505.7 Appendages and projections. Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall be not less than 1-hour fire-resistance-rated construction, heavy timber construction or constructed of one of the following:

1. Approved noncombustible materials.
2. Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code.
3. Ignition-resistant building materials in accordance with Section 503.2.

Exception: Coated materials shall not be used as the walking surface of decks.

505.7.1 Underfloor areas. Where the attached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5.

505.8 Exterior glazing. Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire protection rating of not less than 20 minutes.

505.9 Exterior doors. Exterior doors shall be approved non-combustible construction, solid core wood not less than 1 3/4 inches thick (45 mm), or have a fire protection rating of not less than 20 minutes. Windows within doors and glazed doors shall be in accordance with Section 505.8.

Exception: Vehicle access doors.

505.10 Vents. Attic ventilation openings, foundation or underfloor vents or other ventilation openings in vertical exterior walls and vents through roofs shall not exceed 144 square inches (0.929 m2) each. Such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch (6.4 mm) or shall be designed and approved to prevent flame or ember penetration into the structure.

505.10.1 Vent locations. Attic ventilation openings shall not be located in soffits, in eave overhangs, between rafters at eaves, or in other overhang areas. Gable end and dormer vents shall be located not less than 10 feet (3048 mm) from lot lines. Underfloor ventilation openings shall be located as close to

505.11 Detached accessory structures. Detached accessory structures located less than 50 feet (15 240 mm) from a building containing habitable space shall have exterior walls constructed with materials approved for not less than 1-hour fire-resistance-rated construction, heavy timber, log wall construction, or constructed with approved noncombustible materials or
fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

505.11.1 Underfloor areas. Where the detached accessory structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have underfloor areas enclosed to within 6 inches (152 mm) of the ground, with exterior wall construction in accordance with Section 505.5 or underfloor protection in accordance with Section 505.6.

Exception: The enclosure shall not be required where the underside of exposed floors and exposed structural columns, beams and supporting walls are protected as required for exterior 1-hour fire-resistance-rated construction or heavy-timber construction or fire-retardant-treated wood on the exterior side. The fire-retardant-treated wood shall be labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code.

Section 1315: Any scrivener’s errors contained in the code amendments herein, including but not limited to mislabeled subsections or titles, may be corrected administratively following adoption of the Ordinance.

Section 1416: This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

Section 1517: If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 1618: A public hearing on this ordinance was held on the 28th day of June 2022, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED AND READ, as provided by law, by the City Council of the City of Aspen on the 14th day of June 2022.

ATTEST:

Nicole Henning, City Clerk Torre, Mayor

FINALLY, adopted, passed and approved this 28th day of June 2022.

ATTEST:

Nicole Henning, City Clerk Torre, Mayor

APPROVED AS TO FORM:
FINALLY, adopted, passed and approved this ___ day of __________, 2022.

_____________________________
Torre, Mayor

ATTEST: APPROVED AS TO FORM:

_____________________________  ______________________________
Nicole Henning, City Clerk    James R. True, City Attorney
Exhibit B - Policy Resolution

RESOLUTION NO. 43
SERIES OF 2022

A RESOLUTION OF THE CITY OF ASPEN CITY COUNCIL ADOPTING POLICIES AUTHORIZING AMENDMENTS TO THE LAND USE CODE IN RESPONSE TO CITY COUNCIL’S SHORT-TERM RENTAL AND RESIDENTIAL DEVELOPMENT MORATORIUM

WHEREAS, pursuant to Section 26.310.020(A), a Policy Resolution is required to initiate amendments to the City of Aspen Land Use Code; and,

WHEREAS, pursuant to Section 26.310.020(A), during a regular City Council meeting on December 14, 2021, City Council adopted Ordinance No. 26, Series of 2022 by a unanimous affirmative vote extending 2021 Vacation Rental Permits issued as of December 8, 2021, until September 30, 2022 and terminating any new 2022 permits as of January 15, 2022; and,

WHEREAS, pursuant to Section 4.11 of Aspen’s Municipal Charter, during a special City Council meeting on March 15, 2022, City Council adopted Ordinance No. 06, Series of 2022 by a unanimous affirmative vote reestablishing a moratorium on certain types of residential development until June 8, 2022; and,

WHEREAS, at previous Council Meetings, including but not limited to December 8, 2021 and March 15, 2022 Council meetings, Community Development Department received direction from City Council to draft targeted amendments to the Land Use Code related to short-term rentals, growth management, affordable housing, and development review processes; and,

WHEREAS, the Land Use Code amendments requested by Council will advance specific policy statements in the Aspen Area Community Plan (AACP) related to affordable housing, environmental protection, climate action, residential sector development, lodging, community sustainability and character, and development review processes; and,

WHEREAS, the Land Use Code is an essential tool for City Council and the community to ensure that Aspen’s built environment supports the vision and policy objectives described in the AACP; and,

WHEREAS, the Land Use Code requires periodic amendments to ensure it supports adopted City policy, is aligned with the community vision, and responds to changes in community, economic, and environmental conditions; and,

WHEREAS, to ensure the Land Use Code supports AACP policies, delivers a built environment which supports community policies, economic needs, environmental stewardship obligations, responds to current community, economic, and environmental conditions, and supports to objectives of Ordinance No. 26, Series of 2021 and Ordinance No.

Resolution No. 43, Series of 2022
Moratorium Code Amendments Policy Resolution
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6, Series of 2022, the Community Development Director recommends Council consider amendments to Land Use Code sections including, but not limited to:

- 26.104 Definitions,
- 26.200 Administration-Decision Making Bodies,
- 26.300 General Procedures and Regulations,
- 26.400 Development Review Standards and Procedures,
- 26.540 Certificates of Affordable Housing Credit,
- 26.575 Miscellaneous Regulations,
- 26.610 Impact Fees,
- 26.710 Zone Districts; and,

WHEREAS, City Council has reviewed the proposed code amendment policy direction described in this resolution and finds it meets the criteria outlined in Section 26.310.040; and,

WHEREAS, amending the Land Use Code as described below will ensure the ongoing effectiveness and viability of the regulations within the City of Aspen Land Use Code to achieve City Council’s policy and regulatory goals as described in Ordinance No. 26, Series of 2021 and Ordinance No. 6, Series of 2022; and,

WHEREAS, the regulations and standards in the Land Use Code provide important tools for the realization of Council’s policy and regulatory objectives in response to Ordinance No. 26, Series of 2021 and Ordinance No. 6, Series of 2022; and,

WHEREAS, pursuant to Section 26.310.020(B)(1), the Community Development Department, following approval of this Policy Resolution will conduct Public Outreach with the public, property owners, and members of the development community; will receive recommendation from the Planning and Zoning Commission in a public hearing; and will propose an Ordinance to be considered at First and Second Reading; and,

WHEREAS, this Resolution does not amend the Land Use Code, but provides direction to staff for amending the Land Use Code; and,

WHEREAS, the City Council finds that this Resolution furthers and is necessary for the promotion of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN AS FOLLOWS:

Section 1: Overall Code Amendment Objectives
The objectives of these code amendments are to:

1. Align regulations in the Land Use Code with policies in the Aspen Area Community Plan related to affordable housing, environmental protection, climate action, growth management quota system, residential sector development, lodging, community sustainability and character, and development review processes; and,

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2. Amend the Land Use Code to support the development of more affordable housing in the City of Aspen; and,
3. More directly recognize and ensure proper mitigation of the employee generation impact of single family and duplex residential development; and,
4. More directly recognize and ensure proper mitigation of the employee generation impact of short-term rental in residential property within the City of Aspen; and,
5. Align land use review processes with community development needs, including affordable housing, and the mitigation of the community impacts from free-market development; and,
6. Ensure the ongoing effectiveness of the Growth Management Quota System in managing growth from residential development and redevelopment and mitigating the community impacts from those activities; and
7. Leverage GMQS tools to better align land use regulations and policies with climate action and environmental stewardship policies; and,
8. Adequately mitigate for the impacts of short-term rentals to the community; and,
9. Support adopted community greenhouse gas emissions reductions targets through responsible land use and development regulations; and,
10. Ensure future development and redevelopment mitigates for its climate, solid waste, natural resource, and environmental impacts; and,
11. Ensure the pace and scale of residential sector development does not unduly impact the health, safety, peace, and sustainability of the community.

Section 2: Topics for Potential Code Amendments

A. Affordable Housing
The Aspen Area Community Plan includes policies directing the City of Aspen to address affordable housing in the community, including:

1. VIII.1. Restore public confidence in the development process. (pg 27)
2. VIII.2. Create certainty in zoning and the land use process. (pg 27)
3. VIII.3. Ensure that the Planned Development process results in tangible, long-term community benefits and does not degrade the built or natural environment through mass and scale that exceeds the Land Use Code standards. (pg 27)
4. II.1. The housing inventory should bolster our socioeconomic diversity. (pg 41)
5. II.2. Affordable housing should be prepared for the growing number of retiring Aspenites. (pg 41)
6. IV.2. All affordable housing must be located within the Urban Growth Boundary. (pg 42)
7. IV.3. On-site housing mitigation is preferred. (pg 42)
8. IV.5. The design of new affordable housing should optimize density while demonstrating compatibility with the massing, scale, and character of the neighborhood; (pg 42) and,

City Council provides the following direction to guide the development of LUC amendments on this topic:

1. Analyze potential regulations to allow for the development of affordable housing by right in appropriate zone districts and with dimensional standards which support

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neighborhood character and the financial viability of private sector affordable housing development; and,
2. Create more robust incentives for the development of affordable housing by the private sector; and,
3. Provide a necessary foundation on which to base other, future Land Use Code changes in the creation of additional opportunity for affordable housing development.

B. Short-term Rentals
The Aspen Area Community Plan includes policies directing the City of Aspen to address STRs in the community, including:
1. VIII.2. Create certainty in zoning and the land use process. (pg 27)
2. II.1. The housing inventory should bolster our socioeconomic diversity. (pg 41)
3. We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20), and
4. I.1. Achieve sustainable growth practices to ensure long-term vitality and stability of our community and diverse visitor-based economy. (pg 24); and
5. We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20), and
6. IV.1 Minimize further loss of lodging inventory (pg 25); and
7. Zoning and land use processes should result in lodging development that is compatible and appropriate within the context of the neighborhood, in order to:
a. Create certainty in land development...
b. Protect small town character community character...
c. Limit consumption of energy and building materials,
d. Limit the burden on public infrastructure and ongoing public operating costs,
e. Reduce short- and long-term job generation impacts, such as traffic congestion and affordable housing demand.
8. VII.1 Study and quantify all impacts that are directly related to all types of development.
9. VII.2 Ensure that new development and redevelopment mitigates all reasonable, directly related impacts.

City Council provides the following direction to guide the development of LUC amendments on this topic:
1. Define short-term rentals (STRs) as a land use distinct from residential, commercial, and lodge uses; and,
2. Develop and implement a permitting and regulatory compliance system for STRs; and,
3. Use permit types to distinguish between STR types including owner-occupied, non-owner-occupied, and lodging-based STRs; and,
4. Use permit types to limit the duration (days per year) certain STR types may operate; and,
5. Develop and implement a neighborhood noticing system for STR permit applications; and,

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6. Assess a permit fee on STR permits which mitigates the administrative and community costs for the STR permit system; and,
7. Assess the appropriateness of an impact or other nexus-based fee on STRs to mitigate the affordable housing demand, community infrastructure impacts, and costs associated with STRs; and,
8. Quantify the affordable housing demand generated by STRs in residential properties; and,
9. Use zone districts and concentration limits to limit the number of STRs in the community and focus the use in appropriate districts; and,
10. Develop comprehensive life safety standards for STRs; and,
11. Develop public information and “good neighbor” policies to assist STR occupants in supporting and following Aspen’s regulations and cultural norms; and,
12. Development a system of inspections, audits, and enforcement for STRs; and

C. Growth Management and Development Pace and Scale
The Aspen Area Community Plan includes policies directing the City of Aspen to address growth management and development mitigation, including:
1. We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20); and
2. I.1. Achieve sustainable growth practices to ensure long-term vitality and stability of our community and diverse visitor-based economy. (pg 24); and
3. V.1. Encourage a commercial mix that is balanced, diverse and vital and meets the needs of year-round residents and visitors. (pg 26); and
4. V.2. Facilitate the sustainability of essential businesses that provide basic community needs. (pg 26); and
5. V.3. Ensure that the City Land Use Code results in development that reflects our architectural heritage in terms of site coverage, mass, scale, density and a diversity of heights, in order to:
   a. Create certainty in land development.
   b. Prioritize maintaining our mountain views.
   c. Protect our small-town community character and historical heritage.
   d. Limit consumption of energy and building materials.
   e. Limit the burden on public infrastructure and ongoing public operating costs.
   f. Reduce short- and long-term job generation impacts, such as traffic congestion and demand for affordable housing. (pg 26) and,

City Council provides the following direction to guide the development of LUC amendments on this topic:
1. Conduct a generation and mitigation study to support updates to the employee generation and mitigation rates for single-family, duplex and multi-family residential uses within the City; and
2. Assess the adequacy of the current system of development allotments at managing growth through controls on residential development; and,
3. Analyze the relationship between residential demolition, the allotment system, and the pace and scale of residential development and redevelopment to determine

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whether demolition constitutes residential development activity warranting and allotment under the GMQS; and,
4. Analyze appropriate performance standards for residential development seeking an allotment under the GMQS; and,
5. Analyze residential development standards to ensure the mass and scale of residential development and redevelopment reinforces neighborhood and community character; and,
6. Amend the standards for the calculation of development metrics to ensure residential development and redevelopment mitigate for their community impacts.

D. Development Review Procedures
The Aspen Area Community Plan includes policies directing the City of Aspen to address development review procedures, including:
1. We must pursue more aggressive measures to ensure the needs of the community are met, and to preserve our unique community character. (pg 20); and
2. I.1. Achieve sustainable growth practices to ensure long-term vitality and stability of our community and diverse visitor-based economy. (pg 24); and
3. V.3. Ensure that the City Land Use Code results in development that reflects our architectural heritage in terms of site coverage, mass, scale, density and a diversity of heights, in order to:
   a. Create certainty in land development.
   b. Prioritize maintaining our mountain views.
   c. Protect our small-town community character and historical heritage.
   d. Limit consumption of energy and building materials.
   e. Limit the burden on public infrastructure and ongoing public operating costs.
   f. Reduce short- and long-term job generation impacts, such as traffic congestion and demand for affordable housing. (pg 26); and
4. VIII.1. Restore public confidence in the development process. (pg 27)
5. VIII.2. Create certainty in zoning and the land use process. (pg 27)
6. IV.3. On-site housing mitigation is preferred. (pg 42)

City Council provides the following direction to guide the development of LUC amendments on this topic:
1. Ensure that review processed for residential development and redevelopment, affordable and free market, support and deliver upon adopted City policies including analysis of by-right, administrative, and board review processes and the level of scrutiny and community involvement appropriate for different development types; and,
2. Modify review standards and processes to promote the development of additional affordable housing; and,
3. Modify review standards and procedures to better align the use of land, infrastructure, and resources for residential land uses supports City policy and economic, environmental, and community needs.

Section 3: Other Amendments as Necessary

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Other amendments may be required to ensure coordination between the sections identified above and other sections in the LUC which may not have been anticipated. The code sections identified in this resolution is not an exhaustive list and may be modified to ensure coordination between LUC sections and to follow subsequent Council direction on these topics.

**Section 4:**
This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

**Section 5:**
If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

FINALLY, adopted this 22nd day of March, 2022.

**TORRE**
Torre, Mayor

**ATTEST:**
Nicole Henning, City Clerk

**APPROVED AS TO FORM:**
James R True, City Attorney
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Introduction and Background

This report summarizes findings regarding the employee generation associated with the construction and operations/upkeep of free-market residential units in Aspen, excluding condotels and fractional/timeshare units. The analysis has been undertaken for purposes of updating the City of Aspen’s affordable housing mitigation requirements.

This study updates and supersedes the 2015 Aspen Residential Employment Generation Study. This 2022 update uses a mix of similar and different methodologies as the 2015 study, and uses updated data. The 2022 update also uses a different measure of home size as a measure against which employment is estimated. Specifically, this 2022 update focuses on “heated square footage” (as defined by the Pitkin County Assessor) as a measure of home size. By contrast, the 2015 study benchmarked employment estimates to residential “floor area” as defined in section 26.575.020.D of the Aspen Land Use Regulations (“Measuring Floor Area”).

This study evaluates two types of residential employment impacts:

1. Employment associated with the construction of heated square footage; and
2. Employment associated with the ongoing operation and maintenance of the home (and particularly services delivered to/provided at the home).

As described in the body of the report, several types of employment impacts associated with residential units, such as architecture and engineering services, services related to purchasing and financing a home, and employment stemming from occupant purchases of retail goods and services at commercial establishments, are excluded from the residential employment calculation, since those employment impacts (and associated housing mitigation requirements) are assigned to the development of commercial floor area in Aspen. Additionally, construction employment associated with residential alterations and remodels which don’t add square footage is also excluded from this analysis. Employment associated with the delivery of public services (e.g. police, fire, water, sewer) is also excluded. These exclusions are consistent with the approach taken in the 2015 study.

Both of the categories of residential employment outlined above (construction and operations) have been evaluated through their own methodologies and data sources, as described in the report. The two categories are then summed to derive total residential employment generation.

Summary of Residential Employment Generation Estimates

Total employment associated with free-market residential units had been calculated as the sum of employment resulting from the construction of new square footage and the operations and

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1 Fractional/timeshare and condotel units tend to have employment dynamics which are different from other free-market residential units (e.g. more akin to hotels), and are thus treated differently in Aspen’s land use regulations.

2 “Floor area” as defined in the Aspen Land Use regulations is generally defined as above-grade interior space, plus basement space proportionate to the share of basement wall area which is above grade. The definition of “floor area” also has a variety of other technical specifications. In contrast, the “heated square footage” measure used in the 2022 update includes sub-grade space, provided it is heated.
maintenance of a unit once it is built. The results are summarized in Table 1 to follow, for 1000 square foot increments of floor space.

Table 1
Estimated Employment Generation Associated with Aspen Free-Market Residential Units

<table>
<thead>
<tr>
<th>Heated Square Feet</th>
<th>Employment</th>
<th>Operations/Upkeep</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,000</td>
<td>0.081</td>
<td>0.103</td>
<td>0.184</td>
</tr>
<tr>
<td>2,000</td>
<td>0.162</td>
<td>0.206</td>
<td>0.368</td>
</tr>
<tr>
<td>3,000</td>
<td>0.243</td>
<td>0.309</td>
<td>0.552</td>
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<tr>
<td>4,000</td>
<td>0.324</td>
<td>0.412</td>
<td>0.736</td>
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<tr>
<td>5,000</td>
<td>0.405</td>
<td>0.515</td>
<td>0.920</td>
</tr>
<tr>
<td>6,000</td>
<td>0.486</td>
<td>0.618</td>
<td>1.104</td>
</tr>
<tr>
<td>7,000</td>
<td>0.567</td>
<td>0.721</td>
<td>1.288</td>
</tr>
<tr>
<td>8,000</td>
<td>0.648</td>
<td>0.824</td>
<td>1.472</td>
</tr>
<tr>
<td>9,000</td>
<td>0.729</td>
<td>0.927</td>
<td>1.656</td>
</tr>
<tr>
<td>10,000</td>
<td>0.810</td>
<td>1.030</td>
<td>1.840</td>
</tr>
<tr>
<td>Each add'1,000 sqft</td>
<td>0.081</td>
<td>0.103</td>
<td>0.184</td>
</tr>
</tbody>
</table>

Source: RRC Associates.

Looking at each category of employment generation separately:

- **Construction employment** is estimated to increase at a linear rate of 0.081 employees per 1,000 heated square feet.
- **Operations and maintenance employment** is estimated to grow at a linear rate of 0.103 employees per 1,000 heated square feet.
- **Total employment** is estimated to grow at a linear rate of 0.184 employees per 1,000 heated square feet.

The employment estimates for construction and operations/upkeep are intended for use either separately or in combination, depending on the type(s) of employment that are intended to be mitigated in a given construction project.

**Employment Associated with the Construction of Square Footage**

The objective of this element of the analysis is to estimate the average number of construction “employee-years” and “permanent construction employees” that are required to build 1,000 square feet of new free-market residential floor area in Aspen. Included in the calculations are employees classified as being in the construction industry, including general contractors and specialty trades contractors. Excluded are employees classified as being in allied industries, such as architectural and engineering services, building materials wholesalers and retailers, utility providers, etc. (insofar as the associated employment impacts and housing mitigation requirements of those activities are assigned to the development of commercial floor area in Aspen).
Construction employment was estimated via an analysis of a variety of secondary data pertaining to construction economics, as illustrated in Table 2 and described further to follow.

### Table 2

**Derivation of Residential Construction Employment per 1000 Square Feet of Heated Area in Aspen**

<table>
<thead>
<tr>
<th>Step</th>
<th>Operation</th>
<th>Value</th>
<th>Description and Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>$784,105</td>
<td>Average residential construction valuation per 1000 sqft heated area. Source: Aspen housing fees and building permit records, and Assessor heated sqft, for 35 new housing units permitted in 2017-2021.</td>
</tr>
<tr>
<td>3</td>
<td>=</td>
<td>4.019</td>
<td>Average construction worker-years per 1,000 heated sqft of new residential construction</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>1.242</td>
<td>Average number of jobs held per construction / maintenance / repair worker at a given time. Source: Roaring Fork Valley Housing Survey, 2018.</td>
</tr>
<tr>
<td>5</td>
<td>=</td>
<td>3.236</td>
<td>Effective number of unique individuals employed for each 1,000 sqft residential heated area constructed, after controlling for multiple jobholding.</td>
</tr>
<tr>
<td>6</td>
<td>/40 =</td>
<td>0.081</td>
<td>Permanent workers per 1,000 heated sqft (assuming 40 year career).</td>
</tr>
</tbody>
</table>

Source: RRC Associates, and data sources listed above.

As illustrated in Table 2 above, the construction employment calculation follows a six-step process, as described further below.

- **Step 1:** Calculate the value per square foot of recently constructed residential units. Construction valuation and heated square footage data was assembled from a sample of 35 new residential units permitted in 2017-2021 in Aspen (shown in Table 3 to follow), using building permit and Assessor records. Across this sample of units, the average construction valuation was $784 per heated square foot, or $784,105 per 1,000 heated square feet. The median unit had a roughly similar construction valuation of $738 per heated square foot. The sample includes units built on vacant lots, as well as units built as replacements for demolished or “scraped” units.

- **Step 2:** Calculate residential construction output per residential construction job. Average residential construction output per job was calculated from two sources – 2020 US BEA RIMS II multipliers and 2019 IMPLAN output:employment ratios (inflation-adjusted to 2020). The two estimates were then averaged, yielding an estimate of $195,082 in residential construction output per residential construction job. Calculation detail is shown in Table 4, Table 5, and Table 6 to follow.

  - Table 4 calculates the residential construction output per residential construction job from an average of the RIMS II and IMPLAN methodologies.
  - Table 5 calculates average residential construction output per job from RIMS II multipliers, based on a 30% Pitkin County / 70% Garfield County blend of jobs, assuming that 70% of construction jobs in Pitkin County are fulfilled by Garfield County and Eagle...
Table 6 calculates average residential construction output per job from IMPLAN multipliers for a blended average of Pitkin and Garfield County construction firms.  

- **Step 3: Calculate construction worker-years per 1,000 square feet constructed.** This calculation involves dividing average residential construction valuation per 1,000 sqft ($784,105) by average annual construction output per worker ($195,082) to yield an estimate of 4.019 construction worker-years per 1,000 square feet constructed.

- **Steps 4 and 5: Control for multiple jobholding.** Like workers in other occupations and industries in the Roaring Fork Valley, many construction workers hold multiple jobs. Based on the 2018 Roaring Fork Valley Household Survey on housing issues, workers employed in construction / maintenance / repair occupations held an average of 1.242 jobs at the time the survey was conducted. Dividing the 4.019 construction worker-years per 1,000 square feet by 1.242 jobs per worker yields an estimate of 3.236 unique individuals employed and needing housing per 1,000 square feet constructed.

- **Step 6: convert worker-years into permanent workers.** The final step of the analysis assumes an average worker career of 40 years. Dividing 3.236 worker-years per 1000 square feet (in Step 5) by 40 years yields an estimate of 0.081 permanent workers per 1,000 heated square feet.

---

3 RIMS II multipliers are not available at the subcounty level; thus, multipliers are not available for the Basalt/El Jebel portion of Eagle County. Instead, Garfield County factors were assumed to serve as a proxy for Eagle County construction firms.
### Table 3
Aspen Building Permit Records Used to Derive Construction Valuation per Square Foot

<table>
<thead>
<tr>
<th>Permit Number</th>
<th>Parcel Number</th>
<th>Permit Valuation</th>
<th>Heated Square Feet</th>
<th>Valuation per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>0143.2018.ARBK</td>
<td>273512432004</td>
<td>$1,558,000</td>
<td>5,629</td>
<td>$277</td>
</tr>
<tr>
<td>0290.2018.ARBK</td>
<td>273501363001</td>
<td>$1,689,797</td>
<td>4,710</td>
<td>$359</td>
</tr>
<tr>
<td>0011-2019-BRES</td>
<td>273718100054</td>
<td>$867,000</td>
<td>2,203</td>
<td>$394</td>
</tr>
<tr>
<td>0253.2018.ARBK</td>
<td>273512428003</td>
<td>$2,500,000</td>
<td>5,625</td>
<td>$444</td>
</tr>
<tr>
<td>0291.2018.ARBK</td>
<td>273501363002</td>
<td>$1,304,219</td>
<td>2,786</td>
<td>$468</td>
</tr>
<tr>
<td>0076.2018.ARBK</td>
<td>273718282002</td>
<td>$2,998,185</td>
<td>5,373</td>
<td>$558</td>
</tr>
<tr>
<td>0056.2018.ARBK</td>
<td>273718122001</td>
<td>$2,200,000</td>
<td>3,900</td>
<td>$564</td>
</tr>
<tr>
<td>0239.2018.ARBK</td>
<td>273512428002</td>
<td>$2,137,500</td>
<td>3,753</td>
<td>$570</td>
</tr>
<tr>
<td>0240.2018.ARBK</td>
<td>273512428001</td>
<td>$2,137,500</td>
<td>3,752</td>
<td>$570</td>
</tr>
<tr>
<td>0078-2021-BRES</td>
<td>273512463031</td>
<td>$4,451,715</td>
<td>7,308</td>
<td>$609</td>
</tr>
<tr>
<td>0016-2020-BRES</td>
<td>273718120011</td>
<td>$3,850,000</td>
<td>5,979</td>
<td>$644</td>
</tr>
<tr>
<td>0073-2020-BRES</td>
<td>273718103002</td>
<td>$3,328,058</td>
<td>5,136</td>
<td>$648</td>
</tr>
<tr>
<td>0045-2019-BRES</td>
<td>273512291001</td>
<td>$5,520,000</td>
<td>8,289</td>
<td>$666</td>
</tr>
<tr>
<td>0044-2019-BRES</td>
<td>273512291002</td>
<td>$5,528,000</td>
<td>8,290</td>
<td>$667</td>
</tr>
<tr>
<td>0059-2019-BRES</td>
<td>273718103012</td>
<td>$3,480,000</td>
<td>5,193</td>
<td>$670</td>
</tr>
<tr>
<td>0053-2019-BRES</td>
<td>273512433001</td>
<td>$3,100,000</td>
<td>4,428</td>
<td>$700</td>
</tr>
<tr>
<td>0006-2020-BRES</td>
<td>273512428005</td>
<td>$3,383,486</td>
<td>4,584</td>
<td>$738</td>
</tr>
<tr>
<td>0119-2020-BRES</td>
<td>273707400009</td>
<td>$5,386,341</td>
<td>7,266</td>
<td>$741</td>
</tr>
<tr>
<td>0005-2020-BRES</td>
<td>273512428004</td>
<td>$5,980,862</td>
<td>7,998</td>
<td>$748</td>
</tr>
<tr>
<td>0062.2018.ARBK</td>
<td>273718100018</td>
<td>$6,640,234</td>
<td>8,290</td>
<td>$801</td>
</tr>
<tr>
<td>0043-2020-BRES</td>
<td>273707400023</td>
<td>$6,050,000</td>
<td>7,526</td>
<td>$804</td>
</tr>
<tr>
<td>0072-2020-BRES</td>
<td>273502402006</td>
<td>$6,576,400</td>
<td>8,163</td>
<td>$806</td>
</tr>
<tr>
<td>0056-2021-BRES</td>
<td>273718260363</td>
<td>$4,107,993</td>
<td>4,985</td>
<td>$824</td>
</tr>
<tr>
<td>0101-2021-BRES</td>
<td>273718122007</td>
<td>$4,164,800</td>
<td>4,817</td>
<td>$865</td>
</tr>
<tr>
<td>0062-2019-BRES</td>
<td>273512444002</td>
<td>$6,075,828</td>
<td>6,750</td>
<td>$900</td>
</tr>
<tr>
<td>0138-2020-BRES</td>
<td>273718131005</td>
<td>$7,783,020</td>
<td>8,644</td>
<td>$900</td>
</tr>
<tr>
<td>0139-2020-BRES</td>
<td>273707392012</td>
<td>$7,783,020</td>
<td>8,644</td>
<td>$900</td>
</tr>
<tr>
<td>0079.2018.ARBK</td>
<td>273502303007</td>
<td>$7,876,250</td>
<td>8,543</td>
<td>$922</td>
</tr>
<tr>
<td>0096.2018.ARBK</td>
<td>273501307009</td>
<td>$8,084,775</td>
<td>8,704</td>
<td>$929</td>
</tr>
<tr>
<td>0281.2017.ARBK</td>
<td>273512459112</td>
<td>$3,224,227</td>
<td>3,266</td>
<td>$987</td>
</tr>
<tr>
<td>0111.2018.ARBK</td>
<td>273502402004</td>
<td>$5,780,809</td>
<td>5,554</td>
<td>$1,041</td>
</tr>
<tr>
<td>0034.2018.ARBK</td>
<td>273514111112</td>
<td>$12,480,090</td>
<td>10,081</td>
<td>$1,238</td>
</tr>
<tr>
<td>0039.2018.ARBK</td>
<td>273718120003</td>
<td>$5,690,972</td>
<td>4,564</td>
<td>$1,247</td>
</tr>
<tr>
<td>0059-2020-BCHO</td>
<td>273501407001</td>
<td>$10,754,000</td>
<td>7,904</td>
<td>$1,361</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>35 units</strong></td>
<td><strong>$166,902,961</strong></td>
<td><strong>212,858</strong></td>
<td><strong>$784</strong></td>
</tr>
</tbody>
</table>

Source: City of Aspen building permit records; Pitkin County Assessor; RRC Associates.
Table 4
Residential Construction Output per Residential Construction Job, 2020:
Average of RIMS II and IMPLAN Estimates

<table>
<thead>
<tr>
<th>Source</th>
<th>Residential construction output per construction job, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>RIMS II</td>
<td>$243,764</td>
</tr>
<tr>
<td>IMPLAN</td>
<td>$146,400</td>
</tr>
<tr>
<td>Average</td>
<td>$195,082</td>
</tr>
</tbody>
</table>

Source: US BEA – RIMS II Multipliers; IMPLAN; RRC Associates.

Table 5
Residential Construction Output per Residential Construction Job, 2020: RIMS II Estimates

<table>
<thead>
<tr>
<th>Region</th>
<th>Industry Code</th>
<th>Industry</th>
<th>Final-demand Employment(^1) (number of jobs)</th>
<th>Direct-effect Employment(^2) (number of jobs)</th>
<th>Direct Employment per $1M Output(^3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pitkin County</td>
<td>2334B0</td>
<td>Residential structures</td>
<td>2.1253</td>
<td>1.3659</td>
<td>1.555970422</td>
</tr>
<tr>
<td>Garfield County</td>
<td>2334B0</td>
<td>Residential structures</td>
<td>6.7299</td>
<td>1.2958</td>
<td>5.193625559</td>
</tr>
<tr>
<td>30% Pitkin / 70% Garfield blend: jobs per $1 million in output</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4.102329018</td>
</tr>
<tr>
<td><strong>Average direct output per job</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$243,764</strong></td>
</tr>
</tbody>
</table>

Notes:
1. Each entry in column 1 represents the total change in number of jobs that occurs in all industries for each additional 1 million dollars of output delivered to final demand by the industry corresponding to the entry.
2. Each entry in column 2 represents the total change in number of jobs in all industries for each additional job in the industry corresponding to the entry.
3. Calculated as column 1 divided by column 2.

Source: US BEA RIMS II Multipliers (2020); RRC Associates.
Table 6
Residential Construction Output per Residential Construction Job, 2019-2020: IMPLAN-Based Estimates

<table>
<thead>
<tr>
<th>County</th>
<th>Code</th>
<th>Description</th>
<th>Total Jobs</th>
<th>Total Output</th>
<th>Total Intermediate Inputs</th>
<th>Total Value Added</th>
<th>Labor Income</th>
<th>Output per job</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pitkin</td>
<td>57</td>
<td>Construction of new single-family residential structures</td>
<td>247</td>
<td>$29,993,771</td>
<td>$11,398,959</td>
<td>$18,594,813</td>
<td>$16,685,171</td>
<td>$121,614</td>
</tr>
<tr>
<td></td>
<td>58</td>
<td>Construction of new multifamily residential structures</td>
<td>73</td>
<td>$6,813,666</td>
<td>$1,176,640</td>
<td>$5,637,026</td>
<td>$5,004,324</td>
<td>$92,842</td>
</tr>
<tr>
<td></td>
<td>59</td>
<td>Construction of other new residential structures</td>
<td>110</td>
<td>$29,488,409</td>
<td>$13,977,892</td>
<td>$15,510,517</td>
<td>$7,524,845</td>
<td>$268,712</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>430</td>
<td>$66,295,846</td>
<td>$26,553,491</td>
<td>$39,742,356</td>
<td>$29,214,340</td>
<td>$154,262</td>
</tr>
<tr>
<td>Garfield</td>
<td>57</td>
<td>Construction of new single-family residential structures</td>
<td>1,170</td>
<td>$130,793,999</td>
<td>$54,062,161</td>
<td>$76,731,837</td>
<td>$69,318,420</td>
<td>$111,817</td>
</tr>
<tr>
<td></td>
<td>58</td>
<td>Construction of new multifamily residential structures</td>
<td>354</td>
<td>$29,159,281</td>
<td>$5,685,490</td>
<td>$23,473,791</td>
<td>$21,022,661</td>
<td>$82,336</td>
</tr>
<tr>
<td></td>
<td>59</td>
<td>Construction of other new residential structures</td>
<td>538</td>
<td>$131,495,785</td>
<td>$68,484,303</td>
<td>$63,011,482</td>
<td>$31,950,108</td>
<td>$244,571</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>2,062</td>
<td>$291,449,065</td>
<td>$128,231,954</td>
<td>$163,217,110</td>
<td>$122,291,188</td>
<td>$141,376</td>
</tr>
<tr>
<td>Combined</td>
<td>57</td>
<td>Construction of new single-family residential structures</td>
<td>1,416</td>
<td>$160,787,770</td>
<td>$65,461,120</td>
<td>$95,326,650</td>
<td>$86,003,591</td>
<td>$113,523</td>
</tr>
<tr>
<td></td>
<td>58</td>
<td>Construction of new multifamily residential structures</td>
<td>428</td>
<td>$35,972,947</td>
<td>$6,662,130</td>
<td>$29,110,817</td>
<td>$26,026,985</td>
<td>$84,139</td>
</tr>
<tr>
<td></td>
<td>59</td>
<td>Construction of other new residential structures</td>
<td>647</td>
<td>$160,984,194</td>
<td>$82,462,195</td>
<td>$78,521,999</td>
<td>$39,474,953</td>
<td>$248,663</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>2,491</td>
<td>$357,744,911</td>
<td>$154,785,445</td>
<td>$202,959,466</td>
<td>$151,505,528</td>
<td>$143,599</td>
</tr>
</tbody>
</table>

x CPI 2019-20: 101.95%

= Combined Pitkin / Garfield counties output per job, 2020: $146,400

Source: IMPLAN (2019); Denver-Aurora-Lakewood Consumer Price Index; RRC Associates.

Employment Associated with Home Operations and Upkeep

Operations and upkeep employment was estimated through a multi-step process. The major steps in the process were the following:

1) Define which industry sectors to include in the calculation of residential operations and upkeep employment.
2) Calculate total employment occurring in Pitkin County in these industry sectors, both from firms based in Pitkin County and from downvalley firms doing business in Pitkin County.
3) Estimate the subset of Pitkin County operations and upkeep employment which is specifically attributable to Aspen free-market units.
4) Calculate employment impacts in Aspen on a per-square foot basis, and control for multiple jobholding.

These steps are described in more detail in the rest of this chapter.

Industry Sectors Included and Excluded from Employment Calculations

The objective of the operations and upkeep employment evaluation is to identify and calculate employment associated with the provision of services delivered to or at residences. Based on consultations with City of Aspen staff, and broadly consistent with the 2015 Aspen Residential
Employment Generation Study approach, the industry sectors shown in Table 7 were included in the analysis.

In addition, a variety of other industry sectors involve the provision of services to homes, but have been excluded from this analysis, out of conservatism and/or to avoid overlap with employment mitigation for commercial development. Examples of these sectors are shown in Table 8.

### Table 7
**Industry Sectors Included in Operations/Upkeep Employment Calculations**

<table>
<thead>
<tr>
<th>NAICS code</th>
<th>NAICS description</th>
</tr>
</thead>
<tbody>
<tr>
<td>531110</td>
<td>Lessors of Residential Buildings and Dwellings</td>
</tr>
<tr>
<td>531311</td>
<td>Residential Property Managers</td>
</tr>
<tr>
<td>5617</td>
<td>Services to Buildings and Dwellings (pest control, landscaping, janitorial, carpet cleaning, etc.)</td>
</tr>
<tr>
<td>5616</td>
<td>Selected Investigation and Security Services (security systems, locksmiths)</td>
</tr>
<tr>
<td>8114</td>
<td>Selected Personal and Household Goods Repair and Maint.Svcs (appliance repair, reupholstery and furniture repair, etc.)</td>
</tr>
<tr>
<td>562111</td>
<td>Solid Waste Collection</td>
</tr>
<tr>
<td>722320</td>
<td>Caterers</td>
</tr>
<tr>
<td>814110</td>
<td>Private Households</td>
</tr>
<tr>
<td><strong>IMPLAN: 61</strong></td>
<td><strong>IMPLAN: Maintenance and repair construction of residential structures</strong></td>
</tr>
</tbody>
</table>

Source: RRC Associates.

### Table 8
**Selected Industry Sectors Excluded from Operations/Upkeep Employment Calculations**

<table>
<thead>
<tr>
<th>NAICS code</th>
<th>NAICS description</th>
</tr>
</thead>
<tbody>
<tr>
<td>221122</td>
<td>Electric Power Distribution</td>
</tr>
<tr>
<td>221210</td>
<td>Natural Gas Distribution</td>
</tr>
<tr>
<td>221310</td>
<td>Water Supply and Irrigation Systems</td>
</tr>
<tr>
<td>221320</td>
<td>Sewage Treatment Facilities</td>
</tr>
<tr>
<td>485310</td>
<td>Taxi and Ridesharing Services</td>
</tr>
<tr>
<td>491110</td>
<td>Postal Service</td>
</tr>
<tr>
<td>492110</td>
<td>Couriers and Express Delivery Services</td>
</tr>
<tr>
<td>492210</td>
<td>Local Messengers and Local Delivery</td>
</tr>
<tr>
<td>517311</td>
<td>Wired Telecommunications Carriers</td>
</tr>
<tr>
<td>517312</td>
<td>Wireless Telecommunications Carriers (except Satellite)</td>
</tr>
<tr>
<td>524210</td>
<td>Insurance Agencies and Brokerages</td>
</tr>
<tr>
<td>524291</td>
<td>Claims Adjusting</td>
</tr>
<tr>
<td>541350</td>
<td>Building Inspection Services</td>
</tr>
<tr>
<td>561612</td>
<td>Security Guards and Patrol Services</td>
</tr>
<tr>
<td>812331</td>
<td>Linen Supply</td>
</tr>
<tr>
<td>812910</td>
<td>Pet Care (except Veterinary) Services</td>
</tr>
<tr>
<td>813990</td>
<td>Selected Aspen HOAs in QCEW - note: these happen to all be fractionals</td>
</tr>
<tr>
<td><strong>Multiple</strong></td>
<td><strong>Renovations / remodeling / alternations construction employment</strong></td>
</tr>
</tbody>
</table>

Source: RRC Associates.
Pitkin County Employment in Applicable Industry Sectors

Employment was calculated for the industry sectors included in the analysis (identified in Table 7 previously) through a multi-step process. The calculations are shown in Table 10 to follow (columns A–H), and described in more detail below.

1) Calculate employment occurring at Pitkin County establishments (columns A–C in Table 10). Employment at Pitkin County establishments was calculated as the sum of QCEW employment (representing employment at firms which are covered by unemployment insurance) and non-employer establishments (representing sole proprietors not covered by unemployment insurance). The year 2019 was chosen for QCEW analysis as a “typical” year, given potential anomalies in 2020 and 2021 data as a result of COVID-19 and CARES Act impacts. 2018 was used for nonemployer statistics (NES) data since it was the most current available data at the time of the analysis. For maintenance and repair construction, IMPLAN (2019) estimates of employment were used.

The analysis found that in 2018/19 for the applicable sectors, there were 1,381 QCEW employees at Pitkin County firms, plus another estimated 854 proprietorships, for 2,235 total jobs. All of these jobs were assumed to service Pitkin County properties, in part based on the Colorado State Demography Office’s base industry assignments for Pitkin County (2020), which estimate that effectively none of the jobs in these Pitkin County sectors are associated with servicing downvalley properties (due to no employment assigned to the “regional center/national services” base industry category).

2) Calculate employment at downvalley establishments which conduct business in Pitkin County (columns D–G). The data sources and calculation methods used for downvalley employment (i.e. the Roaring Fork Valley portion of Eagle County, plus all of Garfield County) were largely the same as those used in Pitkin County. Downvalley QCEW employment was estimated using QCEW Employer Address files, while NES was used to estimate proprietorships in Garfield County.

A key step was to estimate the share of employment at downvalley establishments which goes toward servicing Pitkin County properties. Altogether, it was assumed that 30% of downvalley employment in the following sectors is associated with servicing Pitkin County properties: services to buildings and dwellings, selected investigation and security services, selected goods repair and maintenance services, solid waste collection, and maintenance and repair construction. It was also assumed that none of the downvalley employment in the following sectors is associated with servicing Pitkin County properties.

---

4 QCEW = Quarterly Census of Employment and Wages. The QCEW employment was calculated from employer address files provided by the Colorado Department of Labor. The source of the nonemployer data was Nonemployer Statistics (NES), published by the US Census Bureau. The NES data is published at a 2- to 4-digit level of NAICS industry granularity, while the QCEW employer address data is available at a 6-digit level of industry granularity. In instances where 6-digit granularity has been used in this analysis, NES 4-digit employment was prorated to 6-digit sectors based on QCEW employment distribution in Pitkin County at the 6-digit sector level.

5 NES data is not available at the subcounty level, and thus proprietorships in the Roaring Fork Valley portion of Eagle County are not available. Out of conservatism and to avoid overstating employment, Eagle County NES employment was assumed to be 0, even though there is almost certainly an appreciable level of NES employment.
sectors serviced Pitkin properties: lessors of residences, residential property managers, and caterers. These assumptions were in part derived from the Colorado State Demography Office’s base industry assignments for Garfield County (2020), including estimates that over half of Garfield County’s residential construction and specialty trade contractor employment is associated with servicing out-of-county locations, and estimates that none of Garfield County’s real estate employment serves out-of-county locations.

Additionally, location quotients for the applicable industry sectors were examined for Pitkin County and Garfield County (Table 9). The data show that Garfield County has location quotients well in excess of 1 (relative to the State of Colorado) for construction and waste management and remediation services, while Pitkin County has location quotients less than 1 in these sectors, suggesting a likely provision of services in these sectors by Garfield employers to Pitkin properties.

Also of note, in 2006-10, among construction/agriculture/mining employees working in Pitkin County and living in the Roaring Fork Valley, 32 percent lived in Pitkin County and 68 percent lived in Eagle and Garfield counties.6

Altogether, it was conservatively estimated that 501 workers at firms based downvalley do property operations and upkeep work in Pitkin County.

### Table 9

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Total jobs</td>
<td>21,483</td>
<td>34,486</td>
<td>3,470,272</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>4010</td>
<td>Construction of buildings</td>
<td>392</td>
<td>814</td>
<td>52,047</td>
<td>1.8%</td>
<td>2.4%</td>
<td>1.5%</td>
<td>122%</td>
<td>157%</td>
</tr>
<tr>
<td>4030</td>
<td>Special trade contractors</td>
<td>595</td>
<td>3,267</td>
<td>161,479</td>
<td>2.8%</td>
<td>9.5%</td>
<td>4.7%</td>
<td>60%</td>
<td>204%</td>
</tr>
<tr>
<td></td>
<td>(Sum of construction)</td>
<td>987</td>
<td>4,081</td>
<td>213,526</td>
<td>4.6%</td>
<td>11.8%</td>
<td>6.2%</td>
<td>75%</td>
<td>192%</td>
</tr>
<tr>
<td>10200</td>
<td>Real estate</td>
<td>2,322</td>
<td>1,701</td>
<td>123,464</td>
<td>10.8%</td>
<td>4.9%</td>
<td>3.6%</td>
<td>304%</td>
<td>139%</td>
</tr>
<tr>
<td>11090</td>
<td>Administrative and support services</td>
<td>1,328</td>
<td>1,701</td>
<td>193,396</td>
<td>6.2%</td>
<td>4.9%</td>
<td>5.6%</td>
<td>111%</td>
<td>89%</td>
</tr>
<tr>
<td>11100</td>
<td>Waste management and remediation svcs</td>
<td>9</td>
<td>200</td>
<td>9,647</td>
<td>0.0%</td>
<td>0.6%</td>
<td>0.3%</td>
<td>15%</td>
<td>209%</td>
</tr>
<tr>
<td>14010</td>
<td>Automotive and other repair and maint. svcs</td>
<td>98</td>
<td>453</td>
<td>38,022</td>
<td>0.5%</td>
<td>1.3%</td>
<td>1.1%</td>
<td>42%</td>
<td>120%</td>
</tr>
<tr>
<td>14040</td>
<td>Private households</td>
<td>633</td>
<td>186</td>
<td>23,316</td>
<td>2.9%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>439%</td>
<td>80%</td>
</tr>
</tbody>
</table>

Source: Colorado State Demography Office (2019); RRC Associates.

**Operations and Maintenance Jobs for Aspen Free-Market Units**

Altogether, based on the calculations described above, it was estimated that there were 2,736 jobs associated with the operations and upkeep of Pitkin County properties in 2019.

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6 Census Transportation Planning Products 2006-10 (place of work by place of residence); RRC Associates.
It was then assumed that 46.7% of these jobs were associated with servicing Aspen properties, equivalent to Aspen’s share of Pitkin County’s housing units in 2020, as estimated by the Colorado State Demography Office.\(^7\)

Additional assumptions were applied where necessary to estimate the share of Aspen employment in the applicable sectors which was attributable to residential properties (as distinct from commercial and other properties). By definition, all jobs in the residential lessors, residential property management, and residential repair and maintenance construction sectors were assumed to go towards servicing residential units. In the services to buildings and dwellings sector, 75% of employment was assumed to be attributable to residential properties, proportionate to residential’s share of total built square footage in Aspen.\(^8\) For personal and household goods repair, a similar 75% residential ratio was assumed. For catering, it was assumed that 50% of employment was attributable to events held at homes. Private household employment was estimated specifically for Aspen based on QCEW employer locations.

Altogether, the above factors resulted in an estimate that there are 1,231 jobs involved with the operations and upkeep of Aspen residences.

A further adjustment was used to estimate the share of operations and maintenance jobs associated with free-market units (as distinct from deed restricted/housing authority units). It was estimated that 87% of jobs in most sectors were attributable to free-market units, consistent with the finding that free-market units account for approximately 87% of the residential square footage in Aspen.\(^9\) This results in an estimate of 1,101 jobs associated with the operations and upkeep of Aspen free-market residential units.

**Employment Impacts Per-Square Foot, Controlling for Multiple Jobholding**

Finally, employment was estimated on a per-square foot basis by dividing the 1,101 Aspen operations and upkeep jobs by the 8.78 million heated square feet in Aspen free-market residential units (excluding fractional units and condotels), per Pitkin County Assessor data and RRC calculations. This resulted in an estimate of 0.125 jobs per 1,000 heated square feet in free-market units.

To convert jobs to unique individuals requiring housing, the number of jobs was divided by the average number of jobs held per worker (1.221 jobs, per 2018 Roaring Fork Valley Household housing survey). This yields a final estimate of 0.103 operations and upkeep jobs per 1,000 heated square feet of free-market residential space.

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\(^7\) Estimate of 6,202 housing units in Aspen, 7,070 housing units elsewhere in Pitkin County, and 13,272 total housing units in Pitkin County.

\(^8\) Per May 2022 Pitkin County Assessor data, Aspen has approximately 14.7 million heated square feet of building space, of which approximately 11.05 million is in residential buildings.

\(^9\) Based on estimates of 11.05 million total residential square feet, of which 1.42 million square feet is classified with the Account Type of “Housing Authority.”
### Table 10: Derivation of Operations and Maintenance Employment for Free-Market Residential Units in Aspen

<table>
<thead>
<tr>
<th>Column</th>
<th>Operation →</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
<th>K</th>
<th>L</th>
<th>M</th>
<th>N</th>
<th>O</th>
<th>P</th>
<th>Q</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAICS code</td>
<td>NAICS description</td>
<td>531110</td>
<td>Lessons of Residential Buildings and Dwellings</td>
<td>70</td>
<td>372</td>
<td>442</td>
<td>28</td>
<td>494</td>
<td>0</td>
<td>0</td>
<td>442</td>
<td>46.7%</td>
<td>100.0%</td>
<td>207</td>
<td>87%</td>
<td>51</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>533311</td>
<td>Residential Property Managers</td>
<td>532</td>
<td>348</td>
<td>880</td>
<td>204</td>
<td>241</td>
<td>0</td>
<td>0</td>
<td>680</td>
<td>48.7%</td>
<td>100.0%</td>
<td>413</td>
<td>87%</td>
<td>87</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5617</td>
<td>Services to Buildings and Dwellings (landscaping, janitorial, carpet cleaning, etc.)</td>
<td>394</td>
<td>117</td>
<td>511</td>
<td>708</td>
<td>454</td>
<td>30%</td>
<td>349</td>
<td>46.7%</td>
<td>75.0%</td>
<td>301</td>
<td>87%</td>
<td>263</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5616</td>
<td>Selected Investigation and Security Services (security systems, locksmiths)</td>
<td>0</td>
<td>44</td>
<td>9</td>
<td>30%</td>
<td>15</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>8114</td>
<td>Selected Personal and Household Goods Repair and Maintenance Svcs (appliance repair, upholthorphy and furniture repair, etc.)</td>
<td>6</td>
<td>17</td>
<td>23</td>
<td>20</td>
<td>70</td>
<td>30%</td>
<td>27</td>
<td>101</td>
<td>46.7%</td>
<td>75.0%</td>
<td>41</td>
<td>87%</td>
<td>36</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>72230</td>
<td>Solid Waste Collection</td>
<td>0</td>
<td>121</td>
<td>8</td>
<td>30%</td>
<td>36</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>81410</td>
<td>Private Households</td>
<td>62</td>
<td>assume 0</td>
<td>62</td>
<td>15</td>
<td>52</td>
<td>0</td>
<td>0</td>
<td>62</td>
<td>46.7%</td>
<td>50.0%</td>
<td>74</td>
<td>87%</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>81410</td>
<td>Private Households</td>
<td>273</td>
<td>n/a</td>
<td>273</td>
<td>88</td>
<td>n/a</td>
<td>0</td>
<td>0</td>
<td>273</td>
<td>Use actual Aspen QCEW data</td>
<td>201</td>
<td>100%</td>
<td>201</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>81410</td>
<td>Private Households</td>
<td>44</td>
<td>n/a</td>
<td>44</td>
<td>248</td>
<td>n/a</td>
<td>30%</td>
<td>75</td>
<td>119</td>
<td>46.7%</td>
<td>100.0%</td>
<td>55</td>
<td>87%</td>
<td>48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>1,381</td>
<td>854</td>
<td>2,235</td>
<td>1,476</td>
<td>1,316</td>
<td>501</td>
<td>2,736</td>
<td>1,231</td>
<td>87%</td>
<td>1,101</td>
<td>N = 8,782,349</td>
<td>0.125</td>
<td>1.221</td>
<td>0.103</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: RRC Associates, and sources identified in column headings. N = Data are not published or collected at this geography or industry detail by this program (NES). n/a = Not applicable or not available (RRC Associates).

June 20, 2022
MEMORANDUM

TO: Mayor Torre and Aspen City Council
FROM: Ben Anderson, Principal Planner
Garrett Larimer, Senior Planner
THROUGH: Phillip Supino, Community Development Director
MEMO DATE: June 8, 2022
MEETING DATE: June 14, 2022
RE: First Reading of Ordinances

REQUEST OF CITY COUNCIL:
City Council is asked to review draft Ordinances #13 and #14, Series of 2022 at First Reading.

Ordinance #13 – This Ordinance contains the majority of the proposed changes in response to the moratorium enacted by Ordinance #06, Series of 2022. The changes are numerous but are focused on: Demolition, GMQS (26.470) and a new section that spells out calculation methodology (26.580); Affordable Housing mitigation requirements for single-family and duplex development GMQS (26.470); Affordable Housing review processes in GMQS (26.470), and opportunities for development of affordable housing in the Zone Districts (26.710); and changes to Calculations and Measurements (26.575.020), Definitions (26.104) and other sections of the code in support of these more significant policy proposals. The draft ordinance included in Council’s packet contains clean version of the proposed code amendments. Council may also refer to the redline edits in the Exhibits to view proposed code changes as they relate to existing code.

Ordinance #14 – This Ordinance is much more limited in scope and applies only to a proposed increase to the Affordable Housing Fee-in-Lieu (FIL) that is directed by the LUC to occur on an annual basis. This increase, per code, is based on the national construction cost index published by the Engineering News Record.

Following review, discussion, and direction to staff for any changes or additional information needed at Second Reading, Council is requested to Read and Approve Ordinances #13 and #14 on First Reading.
BACKGROUND AND SUMMARY
Where this Memo and Meeting fit into the larger process:

The contents of this memo and the draft Ordinances reflect staff’s proposed policy responses to previous Council direction across numerous Work Sessions, input and feedback from participants in the engagement process, and the research and analysis of our consultant experts. The code changes presented in the Ordinances and red-line edits included as exhibits, would implement these policy responses.

At a Work Session on May 23, 2022 (Memo included as Exhibit I), staff presented the basic framework of this policy response and asked for direction from Council on a few remaining questions. There was consensus support of the policy framework and Council provided direction on the requested topics. That direction and further work by staff and the consultant team have been included in the draft Ordinances and discussed below in this memo.

Staff did present and discuss the draft Ordinances with the Planning and Zoning Commission at a meeting on June 7, 2022. Due to the overlap with the packet submission deadlines, staff will present Council with P&Z's discussion and any recommendations during the First Reading presentation.

Policy Framework:

Ordinance #13

1) Demolition
Exhibit B, 26.470; Exhibit C, 26.580, and Exhibit A, Residential Demolition and Redevelopment Standards

The primary policy change is the use of the Growth Management Quota System to limit the number of and provide criteria for the approval of single-family and duplex residential demolition and redevelopment. At the May 23rd Work Session, Council provided direction that six (6) annual allotments for demolition and redevelopment of single family and duplex projects is the desired number. More discussion on the process of this review, the role of multi-year allotment review, and the Residential Demolition and Redevelopment Standards is provided below.

2) Affordable Housing Mitigation for Residential Development
Exhibit B, 26.470, Exhibit E, 26.104.100 and 26.575.020

This policy change continues the work from Ordinance #24, Series of 2021 that is currently tabled. If Ordinance #13 is adopted, it would not be necessary to revisit Ordinance 24 as the changes have been incorporated into the larger response to the moratorium.

The primary proposed change is the inclusion of sub-grade areas, garages, and vertical circulation in what building area counts toward mitigation, and the removal of the exemption for existing floor area in redevelopment scenarios. These changes are supported by a new Residential Employee Generation Study, conducted by consultant RRC and Associates, in an update to this document that was last completed in 2015. The final report from the consultant should be ready for inclusion in the record at Second Reading, but the spreadsheets that serve as the foundation for the
3) 100% Affordable Housing Review Process  
Exhibit B, 26.470

This policy proposal would create an administrative review path for 100%, deed-restricted, affordable housing projects that are fully compliant with the requirements of the Land Use Code. Currently, these projects are subject to a review with the Planning and Zoning Commission, even if they are compliant with underlying zone district dimensions, parking requirements, etc. This change would bring a streamlined review and more predictability to both private and public sector AH projects. At the May 23 Work Session, staff identified that projects that involved properties under the review authority of the Historic Preservation Commission presented a challenge. At a special meeting with HPC on June 2nd, a solution to this challenge was proposed by staff and supported unanimously by HPC. A presentation of this proposed solution is described in more detail below.

4) Additional Opportunity for Affordable Housing  
Exhibit D, 26.710

At the May 23rd Work Session, Council provided full support for the proposed changes that include removing any unnecessary obstacles in the development of Affordable Housing across most of Aspen’s zone districts, and in a few specific situations, providing additional opportunity for affordable housing development within the dimensional limitations of the underlying zone districts. A few highlights:

- The ability to develop a 100% affordable triplex or fourplex structures in residential zones that are currently limited to single-family and duplex.
- Giving dimensional flexibility to existing and currently non-conforming multi-family properties in zone districts that preclude multi-family, if those properties were to convert to deed restricted affordable housing.
- Prohibiting the establishment of new, free-market residential units in the Mixed-Use Zone District.

5) Code Amendments in Support of the Primary Policy Changes  
Exhibit E, multiple sections of the LUC

Several chapters of the LUC are proposed for amendment in support of the policy changes described above. Some of these changes are simply to align processes, while others are necessary to bring clarity and consistency to definitions across the code. A few highlights:

- Providing clarity to definitions surrounding floor area and demolition
- Giving flexibility to existing homes to project into setbacks and above their height to allow for insulation upgrades and changes to exterior materials in the promotion of fire protection.
• Giving additional administrative discretion to the Community Development Director to approve modifications to buildings for energy efficiency improvements or for building code compliance.

The Aspen Area Community Plan contains the policy basis for all the amendments proposed in Ordinance #13. Ordinance #6 establishing the moratorium and Policy Resolution #43 cite numerous AACP sections, all of which tie together the community and environmental need for these code amendments with the specific responses requested by Council and proposed by staff.

Exhibit G is a graphic that shows the proposed code and policy changes and their relationship to the Aspen Area Community Plan.

Ordinance #14

Affordable Housing Fee in Lieu Annual Update

In 2020 and 2021, staff worked with consultants TischlerBise and White and Smith Planning Group to study, update and implement the affordable housing mitigation Fee-in-Lieu calculation methodology and rates. Council approved this work and the new rates came into effect in May of 2021. The adopted code language in 26.470.050, specifies that a full study shall be completed every 5 years, but that annual increase should be considered every January, using the National Construction Cost Index from the Engineering New Record. This index calculates labor and material costs in 20 cities across the nation. Due to the moratorium, staff did not propose a change in January, but is doing so now so that the change can be understood in the context of the other proposed changes to affordable housing mitigation requirements for residential development.

Between May of 2021 and May of 2022, the index reflects an 8.47% increase in construction labor and material costs. Ordinance 14 would implement this increase (See Exhibit F). To understand the impact of this change:

- Category 2 – required for SF/Duplex residential mitigation
  - Current FIL per FTE = $376,475
  - Proposed FIL per FTE = $408,362

One other small process change is proposed. For these annual increases, as they are fully directed by the LUC, staff is recommending that the Policy Resolution (normally required for LUC amendments) be removed as a requirement for the Ordinance that would implement a future increase.

STAFF DISCUSSION

The following topics require additional discussion with Council:

Demolition Allotment Process

At the May 23rd Work Session, Councilmember Mesirow requested an outline or graphic that described the overall process of receiving a Demolition allotment and specifically how a request for a multi-year allotment would be reviewed. The following discussion attempts to answer this request as well as outline other elements of the allotment policy.
Allotment Approval Process

**Step 1** – On a first-come, first-served basis, applicants submit a land-use application requesting a Demolition/Redevelopment Allotment. Once determined “complete” these applications will be queued for administrative approval (if they fully qualify for administrative approval). The queuing will reflect the order of applications as submitted and determined complete. Allotments for each year will be available for application starting the first business day following January 1st. 2022 allotments would be available for application on August 8, 2022. It should be noted that a Pre-Application meeting and resulting summary will be necessary for inclusion in an application to be deemed “complete”.

**Step 2** – If an application is complete, compliant with the review criteria, and an allotment is available, an administrative Notice of Approval will be issued and recorded. This approval will be conditioned on compliance with the *Residential Demolition and Redevelopment Standards* at demolition and building permit issuance and the eventual Certificate of Occupancy for the project. This approval carries a 3-year vesting period – meaning that the project would need to submit for demolition/building permit within a 3-year period from the date of the administrative allotment approval.

**Step 3** – A project would submit for demolition and building permit within this three-year vesting period. During permit review, the project would be evaluated for compliance with the *Residential Demolition and Redevelopment Standards* in effect at the time of their Notice of Approval. These projects would also be subject to any other aspects of the municipal code (Building and Energy codes, Engineering standards) in effect at the time of permit submission.

**Other Necessary Reviews** – If a project does not qualify for an administrative review (the project requests a variation from the redevelopment standards, for example), there is a path for review with P&Z. Additionally, if a project needs other reviews (example: Stream Margin Review) an applicant may request to combine other reviews and the allotment review with P&Z, or they may pursue any other necessary reviews separately.

**Multi-Year Allotment Review with City Council** – If a compliant project desires an allotment and the allotments for a given year are utilized, a project may request a multi-year allotment from City Council. This is an already established review in the LUC (26.470.110.A) that allows a project to receive an allotment from the next calendar year. There are an additional set of review criteria under this review that demand a heightened performance for projects to be considered.

**Appeals** – Beyond the multi-year allotment procedure, there is an appeals process outlined in 26.470.160.C for projects that do not receive an allotment in a given year, due to an insufficient number of allotments. This appeal is considered by City Council who may take any action deemed necessary, including making a one-time increase to the annual allotment to accommodate the application.
Local “set-aside” of allotments
A public comment at the May 23rd Work Session suggested that local residents would be at a disadvantage in being approved for a Demolition and Redevelopment Allotment. Staff listened to this concern but feel that the multi-year allotment and appeals process provide paths for any applicant who is denied an allotment due to insufficient allotments being available. Staff is not proposing a “set aside” for locals at this time. Staff did respond to resident comments during the engagement efforts that a scoring process for demolition projects would make it difficult for locals to compete with developers for an allotment and was one of the important consideration in the eventual framing of the allotment process.

Projects that would desire to demolish an existing home and then not redevelop immediately. Councilmember Richards asked a question related to this scenario during the Work Session that staff did not comprehensively answer. First, there have been instances, although generally rare, where a home is demolished, the lot revegetated, and no development is immediately proposed. In the past, these have generally been one-off evaluations with strict limitations on what could be located (fences, etc.) on the now vacant lot. In general though, a demolition permit is not issued independently from a building permit. They are reviewed and issued together. In a circumstance where this were proposed, a project would still need a Demolition and Redevelopment Allotment, but the Notice of Approval would be conditioned differently to ensure conformance of any future development with standards in place at the time of application to develop a site is submitted.

Residential Demolition and Redevelopment Standards
This document sets the performance standards and expectations for projects that pursue demolition and redevelopment. It should be noted that while the initial set of standards proposed for adoption indicate a significant step forward in requirements for project performance during demolition and in the new building, the amendment process for the standards is intentionally designed to be able to respond to new best practices and community expectations that may emerge over time. The moratorium timeline is out ahead of several initiatives being considered by City departments involved in the development process. Some of these initiatives have been included in the standards, but the framework and process allows new ideas and requirements to be easily incorporated over time, with Council review and approval.

Proposed for initial adoption (See Exhibit A for a full presentation):

1) Waste Diversion – participation in the WasteTracking System (Green Halo) that is currently used by the Pitkin County Landfill, and a requirement to divert a minimum of 35% of the demolition waste, by weight, through salvage or recycling efforts.

2) Embodied Carbon Reporting – requirements for EPDs (Environmental Product Declarations) for 50% of the concrete and metal products proposed for the new home. This process is gaining traction in the industry but is still in its infancy. Staff views this step as important for data collection and to understand industry progress in the availability of information on life cycle assessments and embodied carbon reporting on construction materials.
3) **Energy Reporting** – future participation (following completion of the project) in Building IQ benchmarking requirements.

4) **Building Energy Performance** – New buildings resulting from a demolition will be subject to Supplemental Building Code requirements that are attached as an appendix to the *Residential Demolition and Redevelopment Standards*. These additional requirements will all likely be components of the next adoption of Aspen’s building and energy codes (coming later in 2022) and speak to several areas of building performance, requirements for electrification readiness, and future compatibility with renewable energy production and storage.

5) **Engineering Water Quality Requirements** – this requires that:
   “Runoff from 50% of the site impervious area shall be treated in above grade sustainable BMPs (best management practices) such as bioretention areas, pervious pavers, tree canopy, grass buffer or other approved above grade BMPs as outlined in the URMP. 50% of the site’s impervious area is permitted to be treated in subsurface BMPs.”

### Affordable Housing Mitigation

In November of 2021, staff proposed Ordinance 24, which is currently tabled following Council discussion in December of 2021. The ordinance proposed to include the floor area of basements and garages and eliminate the credit for existing floor area (in redevelopment scenarios that trigger Demolition) in the calculation of affordable housing mitigation. Following public comment and Council discussion, Council tabled the ordinance and gave direction to staff to engage with consultants on an updated employee generation study – and to work on new standards for the mitigation deferral agreement for locals that pursue projects that require mitigation.

In the calculation of the mitigation requirements for a project, there are three primary variables:

1) **What counts?** This is where staff is proposing the most significant change.

2) The **Employee Generation Rate** – this is based on employees generated (FTEs) per 1000 square feet of construction activity. This will likely have minimal change from the current code due to the update to the generation study. This number is estimated using national and local data to arrive at the number of employees generated during construction and in the long-term maintenance and operations of a building.

3) The **Mitigation Rate** – this has generally reflected the community’s expectation about what portion of the employee’s generated by a project should be mitigated for. Conceptually, this asks what portion of the project’s employees should be housed in Aspen. There have been many answers to this question over the years. Today, this type of residential development has mitigated at 100%. Commercial and Lodge development mitigates at 65%. On May 23rd, staff asked Council for their direction on the residential mitigation rate. Unanimously, Council supported the continuation of the 100% mitigation rate for single-family and duplex residential development and redevelopment.
Staff requests Council provide direction to staff on these three primary variables and how they result in an overall approach to affordable housing mitigation.

**Single-Family and Duplex Mitigation Requirements:** Staff is continuing to work with our consultants to finalize and review for legal sufficiency the update to the 2015 Employee Generation Study. We have received the calculations and estimates for Employee Generation as a result of the consultant study. These findings are found in spreadsheets included as Exhibit H. A full report on the findings is forthcoming and will be presented at Second Reading. Based on these findings, staff will continue to propose the inclusion of basements, garages and vertical circulation elements into the calculation of affordable housing mitigation requirements. Additionally, staff has included the necessary code adjustments to eliminate the credit for existing floor area in demolition and redevelopment scenarios. Council could expect these code changes to have the following effect:

**Scenario:** An existing home with 2,000 square feet of Floor Area (current floor area calculation) is Demolished. A new home is redeveloped with 3,240 square feet of Floor Area (current code with exempted basement and garage), but with a total square footage of 7,500 square feet that includes the basement and garage.

**Current Code** that includes credit for existing floor area and exempts basements and garages = 0.20 FTE

Also, to provide additional context, it is important to consider the mitigation requirements that were present prior to the 2015 study. Prior to 2015, the calculation of a home’s size for mitigation purposes was consistent with how it is now – the use of a net floor area calculation that excluded basements, garages, stairs and provided credit for existing Floor Area. However, the mitigation structure was completely different. The idea was that for every 3,000 square feet of net floor area, a home would provide 1 FTE of a “moderate income employee” (an average of Cat 2/Cat 3). Please look to the table below for further illustration of these dynamics that compare two previous mitigation systems with the one now proposed by staff. The Proposed Methodology column in the table below includes the maximum estimate of Employee Generation in RRC and Associates findings.

**Scenario:**
2,000 sf - existing home demolished, net Floor Area
3,240 sf – new home, net Floor Area
7,500 sf – new home, mitigation floor area – includes basement and garage

<table>
<thead>
<tr>
<th>Square Footage on which mitigation is based</th>
<th>2013 Methodology &amp; 2013 FIL</th>
<th>2013 Methodology &amp; current FIL</th>
<th>2015 Methodology &amp; current FIL</th>
<th>Proposed Methodology &amp; current FIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Generation per 1000 sf</td>
<td>0.33 FTE</td>
<td>0.33 FTE</td>
<td>.16 FTE</td>
<td>.184 FTE*</td>
</tr>
<tr>
<td>Total Mitigation Requirement (FTE)</td>
<td>0.41 FTE</td>
<td>0.41 FTE</td>
<td>0.20 FTE</td>
<td>1.38 FTE*</td>
</tr>
<tr>
<td>Total AH Mitigation (based on FIL)</td>
<td>$96,235</td>
<td>$154,345</td>
<td>$75,295</td>
<td>$519,535*</td>
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<tr>
<td>AH Mitigation per square foot</td>
<td>$77.60</td>
<td>$124.47</td>
<td>$60.72</td>
<td>$69.27*</td>
</tr>
</tbody>
</table>

* These numbers are based on total employee generation rate based on construction, and operation and maintenance. See below for further discussion.
The proposed change does not drastically change the employees that a square foot generates, instead, it would reflect a policy change about what square footage counts towards the calculation. In the Proposed Methodology, the primary difference is the inclusion of subgrade and garages in the calculation of mitigation and the elimination of the credit for existing floor area. In the proposal, using this scenario, a 7,500 square foot home would be calculated in total – rather than that same house be calculated at the 1,240 sf calculated using previous versions of mitigation requirements in the Code.

In the recently updated employee generation study, the calculations conducted by our consultant, RRC, show the FTEs generated by Construction at 0.081 FTE / 1000 square feet. For Operations and Maintenance; 0.103 FTE / 1000 square feet. In total, the combined FTE generation is 0.184 FTE / 1000 square feet. From this study, the eventual employee generation rate adopted in the code could be no greater than 0.184 FTE, but it could be less. Staff is fully confident in the work conducted by RRC, but there may be reasons to not use the maximum generation amounts:

1) The other levers of mitigation (What we count, mitigation rate at 100%, an updated FIL) are situated at the maximum.
2) The generation estimate is sound but is based on general, rather than property specific data – using only a portion of the O&M would account for the variability between properties in the services that they use.
3) As we are proposing to eliminate the credit for existing FA in redevelopment scenarios – using only a portion of O&M resolves the concerns about homes that have previously mitigated.
4) We are not proposing a phased approach to the implementation. Upon the ending of the moratorium, all projects would be subject to these new requirements – and the size of the increase from current requirements raises a question about reasonableness.

Using the same scenario describe above, here are some potential choices for setting the employee generation rate:

<table>
<thead>
<tr>
<th>What to Include from Generation Calculation</th>
<th>Generation Rate</th>
<th>Mitigation in FTE</th>
<th>Mitigation in current FIL</th>
<th>Increase from Current</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% Construction and 0% O&amp;M</td>
<td>.081 FTE / 1000 sf</td>
<td>.60 FTE</td>
<td>$228,709</td>
<td>3X</td>
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<tr>
<td>100% Construction and 25% O&amp;M</td>
<td>.107 FTE / 1000 sf</td>
<td>.80 FTE</td>
<td>$299,297</td>
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<tr>
<td>100% Construction and 50% O&amp;M</td>
<td>.133 FTE / 1000 sf</td>
<td>1.0 FTE</td>
<td>$376,475</td>
<td>5X</td>
</tr>
<tr>
<td>100% Construction and 100% O&amp;M</td>
<td>.184 FTE / 1000 sf</td>
<td>1.38 FTE</td>
<td>$519,535</td>
<td>7X</td>
</tr>
</tbody>
</table>

Note: Current mitigation rate is .16 FTE / 1000 sf. The majority of the increase from the current mitigation requirements is related to the inclusion of basements and the elimination of the credit for existing floor area.

Staff will discuss this entire topic in more detail during First Reading – as there is clear recognition that this a complex set of issues. Council is requested to provide direction on their desires related to the employee generation rate.
HPC Review and intersection with Administrative Affordable Housing Review

At the Work Session on May 23rd, Council provided clear direction that their desire was to make the review of compliant 100% affordable housing projects as streamlined as possible, while continuing to acknowledge the importance of HPC’s design review authority. Staff, working internally, drafted a proposal for HPC’s consideration and met with HPC on June 2nd to discuss. HPC unanimously agreed with staff’s proposal:

1) For projects that are located in a historic district or on parcels that are designated historic, but do not contain a historic resource, HP staff and an assigned HPC monitor will review the project administratively on a focused set of criteria from the Historic Preservation Design Guidelines. A single notice of approval would be issued that combined the HP design approval with the other aspects of the 100% affordable project.

2) For projects that contain a historic resource, and if the project design proposes any new construction as detached from the resource, a limited one-step review with HPC, prior to the administrative review for the otherwise compliant 100% affordable project would occur. This review by HPC would be limited to evaluating:

- any necessary relocation of the historic resource
- any proposed demolition of non-historic additions to the resource
- requirements for preservation efforts of the resource
- HPC review will not include consideration of unit count, height, mass and scale, or other items which may overlap with the review for compliance with underlying zoning.

With approval from HPC on this limited set of criteria, the administrative review of the other elements of the 100% AH project would commence. In this review, HPC would not be able to grant a Floor Area bonus or any variations to the new construction.

CONCLUSION AND NEXT STEPS:

After several months of planning, formulating contracts and scopes of work with consultants, accumulating data, evaluating best practices from other communities, working through the layered complexities of Aspen’s Land Use Code, and listening to the input from citizens and our technical stakeholders, staff believes that the proposed Ordinances respond to the issues that resulted in the declaration of the moratorium. We have been thoughtful throughout the process of being as faithful as possible to the intentions of Aspen Area Community Plan and Aspen’s climate commitments and goals.

While these proposed changes feel in many ways as a conclusion to this process, most likely, they are just the beginning. Staff is already assembling a program of additional changes that are not necessary to do now under the moratorium, but that are important next steps that have been identified in our research, analysis, and thoughtful observations coming from the engagement process.

The narrative presented above is a comprehensive discussion of the proposed amendments to the Land Use Code, as drafted by staff. There will be some minor changes to the draft language between First and Second Reading as we make sure that ideas are aligned and that there has
not been any unintentional drifting away from the intent of important provisions in the code. Otherwise, the main ideas of the policy response are proposed, and the draft amendments would implement these changes.

As part of the First Reading discussion, staff is prepared to provide any further information as requested by Council during the conversation. Additionally, staff and our consultant team can assemble requested information or possible alternatives for consideration at Second Reading. However, as staff views the realities of the timelines under which we are operating, there are limits to the scale of changes to the proposed policy direction or code amendments that could be implemented and still have the resulting Ordinances be in effect prior to the expiration of the moratorium.

RECOMMENDATIONS:
Staff recommends the Reading and Approval of Ordinances #13 and #14 on First Reading and that Second Reading be set at the regular meeting on June 28, 2022. Note: The Ordinances need to be considered and any related motions be made separately.

EXHIBITS:
A – Residential Demolition and Redevelopment Standards
B – 26.470 – Growth Management Quota System – Redline edits
D – 26.710 – Zone Districts – Redline edits
E – Multiple Code Sections, supporting amendments – Redline edits
F – 26.470.050, Fee-in-Lieu update – Redline edits and Methodology for the increase
G – Graphic, Alignment with Aspen Area Community Plan (AACP)
H – Spreadsheets for RRC Associates documenting Employee Generation Calculations
I – Work Session Memo, May 23, 2022
MEMORANDUM

TO: Mayor Torre and Aspen City Council
FROM: Ben Anderson, Principal Planner
THROUGH: Phillip Supino, Community Development Director
MEMO DATE: May 19, 2023
MEETING DATE: May 23, 2023
RE: Final Policy Check-in with Council prior to First Reading Residential Building Moratorium Response

REQUEST OF CITY COUNCIL:
At the Work Session on May 23, Council will be asked to review Staff’s policy proposals for the Residential Building aspects of the moratorium. While specific code language will not yet be presented, staff requests that Council engage in review and discussion of the Primary Policy Proposals identified in the memo as well as the areas in the code that will need to be amended in support. Additionally, there are a few additional policy questions on which staff will request direction from Council as we finalize our work.

Following this discussion and final direction from Council on these policy items, staff anticipates returning to Council on June 14th for First Reading and June 28th for Second Reading in consideration of Ordinances that reflect this memo and the subsequent discussion.

BACKGROUND AND SUMMARY:

Where this Memo and Work Session fit into the larger process
The contents of this memo reflect staff’s proposed policy responses to previous Council direction across numerous Work Sessions, input and feedback from participants in the engagement process, and the research and analysis of our consultant experts. There are a few remaining aspects of this proposed set of responses that are yet to be finalized. The memo identifies these outstanding items and staff will discuss further during the Work Session. Additionally, there are a few policy questions that have arisen during the last few weeks of our work that staff would like to review with Council and receive direction before the First Reading of the draft Ordinance (and the corresponding code language) is finalized.

With this direction from Council, and the inclusion of final analysis by our consultant team and City staff, code language that is currently in draft will be formalized. Prior to Second Reading of the Ordinance, this language will have been reviewed by multiple staff members across relevant
departments including the City Attorney’s office, our consultant team that includes a third-party land use law review, and by members of the community that have participated in our engagement efforts – particularly those in the development and design community. In spite of the extension of the moratorium, timelines remain tight as we finalize this work. Staff remains committed to making sure that interested community members that have participated in this process have an opportunity to review the final code changes prior to Council making a final decision at Second Reading.

Exhibits
For Council Review, there are several documents attached as Exhibits to the memo that have been developed by the staff of Design Workshop. They are included primarily for Council’s review but have all been instructive to staff as we have made decisions about what to include (and importantly, what not to include) in our proposed policy responses. Staff and the consultant team will be prepared to discuss any of the material presented in these exhibits should Council have questions or comments. It should be noted that the exhibits raise questions that Council may desire staff to re-visit following the moratorium.

PRIMARY POLICY PROPOSALS:

26.470 – Growth Management Quota System

Demolition
Central to staff’s proposed response to concerns about the pace and scale of single-family and duplex development is the use of the long-standing GMQS allotment system to regulate projects that engage in the demolition and redevelopment of a property. Currently there are 19 Residential Development Allotments. Under current code, these are only necessary for new subdivisions or new multifamily units. The proposal is to now include redevelopment scenarios within this system and assign a portion of this total number of residential allotments to projects that trigger Demolition.

In staff’s view, residential projects that trigger Demolition are very impactful to neighbors, to Aspen’s physical infrastructure and environment, and to the capacity at the Pitkin County Landfill. They generate a significant employee demand and often, these projects transform the scope and scale of the existing home into a new residence that is fundamentally different, both in form and function, from the previous structure. Additionally, in analysis of building permits over the last 9 years, there is a recent trend showing a significant increase in Demolition projects (15 in 2021; a rough average of 6.5 in the previous 8 years) and in the Demolition of increasingly more recent built homes (a building permit is currently in review for the demolition and redevelopment of a home built in 2006).

In addition to limiting the number of Demolition projects that could be approved annually, the proposed policy would also establish standards during demolition and for the new home resulting from a redevelopment in order for a project to be issued a Demolition allotment. In staff’s view, implementing these standards would be a starting point that will be more fully built out, defined, and updated over time. To start, the Residential Demolition and Redevelopment Standards will include:

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Final Work Session
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• **Waste Diversion:** Participation in the Green Halo construction and demolition tracking system (used already by the Pitkin County Landfill) and a minimum diversion threshold of demolition and construction waste.

• **Embodied Carbon:** A required reporting of the total embodied carbon of the building process and materials for a project using a choice of approved life-cycle assessment tools. At this time, the report will provide useful data to ComDev and Climate Action staff, rather than showing compliance with a particular threshold.

• **Energy Reporting:** An approved Demolition allotment would require the future home to participate in Building IQ energy reporting and benchmarking for residential projects. This program will be developed by Climate Action and approved by Council at a later date and will support the community’s broader Greenhouse Gas (GHG) reduction goals.

• **Building Energy Performance and Electrification:**
  1. Projects will be subject to the high-performance updates coming to our Building and Energy Codes in Title 8 that will include making sure homes are designed and built for potential future conversion to 100% electric and the accommodation of on-site photo-voltaic and battery storage systems.

• **Stormwater:** Projects will be subject to a higher expectation in contributing to local water quality through implementation of non-structural Best Management Practices (BMPs).

**Note:** *The details of the Residential Demolition and Redevelopment Standards are one of the topics that have not yet been finalized. Staff is working across City agencies to ensure that the initial version of the standards does not add unintentional complexity or conflict between Land Use and other requirements in the development process. This is a document that will be reviewed by interested members of the public, prior to final Council consideration.*

For applications for projects that show compliance with the standards described above, the proposed process for the allotment system would work like this:

- Up to the maximum number of annual allotments for Demolition, land use applications would be accepted on a first come, first serve basis and entered into the queue once determined “complete”.

- Due to the requirements for submission of the land use application, it is anticipated that these requests would be submitted concurrently or at least proximately to the building permit. It is also anticipated that referral agencies would be given an opportunity early on in the review process to identify issues with the design and coordinate with the design team – hopefully reducing overall review times ahead of building permit issuance.

- Since the standards for approval of an allotment are objective and definitive, staff proposes that the applications for allotments be reviewed administratively – with approval granted through a Notice of Approval that would include any necessary conditions.

- The issuance of an allotment would have a three-year vesting period – consistent with the requirements of Colorado State law.
If and when the annual allotments are fully utilized in a given year, there is a process for an application to request from Council the issuance of a multi-year allotment for an additional Demolition – that would reduce the number of allotments available in the following year.

In addition to these outcomes in GMQS, a Demolition and Redevelopment would translate into affordable housing mitigation requirements on the entirety of the new home. Together, this set of policies seeks to discourage Demolition, but if it does happen, the resulting redevelopment will be high performing and be better aligned with the AACP and Aspen’s climate action goals and commitments. Additionally, policies (described later in the memo) are proposed to encourage energy performance upgrades and other flexibility to existing homes.

Policy Questions for Council

1) What should the total number of allotments for Demolition be in a given year?

Discussion: Staff recommends that Council identify a number in a range between (5) and (8) annual allotments. As staff has analyzed the last nine years – the yearly average number of single-family and duplex projects that required a demolition permit was roughly 6.5. In addition, each year, a small number (usually 1 or 2, at the most) cross the 40% threshold for Demolition (as defined in the LUC), but do not require a demolition permit from the building permit. In this way, staff has identified eight (8) as the upper limit of our recommendation for annual Demolition allotments. This number would generally maintain the recent trends (excepting 2021, which was 15). If Council desires to reduce the number of Demolition projects that would be approved annually, a number less than (8) could be identified, but staff does not recommend a number less than (5). In staff’s view, a number less than (5) would place an unreasonable limit on development activity. As Council considers what this number should be, it may be useful to think that once an approval for an allotment is granted, it could easily be three years before that project is complete. So, if eight allotments were granted annually, it is likely that there would be roughly 24 Demolition related projects happening in town at the same time, in different stages of completion.

2) Does Council agree with the staff recommendation to utilize an administrative review for projects that meet the redevelopment performance standards described above?

Discussion: Other development allotment types in GMQS require P&Z (or HPC) or Council review. In some of those other reviews, there is some discretion for the review board within the review criteria. As currently conceived, the requirements for approval of a residential Demolition are not discretionary. There is some choice allowed from the applicant in terms of how to meet the criteria, but there is not discretion in the review. As such, staff is recommending an administrative review. This is a response to comments from the development community that high standards are acceptable, as long as they are objective. Additionally, it was stated that the ComDev land use and building permit is already rigorous and takes time – and that we should avoid making the process more difficult or time consumptive for otherwise compliant projects.
administrative review of a project, using objective standards – would in staff’s opinion respond to these issues while creating a high bar for projects seeking an allotment.

**Affordable Housing Mitigation**

In November of 2021, staff proposed Ordinance 24, which is currently tabled following Council discussion in December of 2021. The ordinance proposed to include the floor area of basements and garages and eliminate the credit for existing floor area (in redevelopment scenarios that trigger Demolition) in the calculation of affordable housing mitigation. Following public comment and Council discussion, Council tabled the ordinance and gave direction to staff to engage with consultants on an updated employee generation study – and to work on new standards for the mitigation deferral agreement for locals that pursue projects that require mitigation.

**Single-Family and Duplex Mitigation Requirements:** Staff is continuing to work with our consultants to finalize and review for legal sufficiency the update to the 2015 Employee Generation Study. Based on preliminary findings, staff will continue to propose the inclusion of basements, garages and other currently exempted areas into the calculation of affordable housing mitigation requirements. Additionally, we are working on the necessary code adjustments to eliminate the credit for existing floor area in demolition and redevelopment scenarios. We will not have finalized numbers to report until First Reading, but as a preliminary estimate, Council could expect code changes to a have the following effect:

**Scenario:** An existing home with 2,000 square feet of Floor Area (current floor area calculation) is Demolished. A new home is redeveloped with 3,240 square feet of Floor Area (current code with exempted basement and garage), but with a total square footage of 7,500 square feet that includes the basement and garage.

**Current Code** that includes credit for existing floor area and exempts basements and garages

= 0.20 FTE

**Proposed Changes:** that excludes credit for existing floor area and includes basements and garages (assuming a 0.15 FTE per 1000 sf generation rate – the final number is TBD)

= 1.13 FTE

Also, to provide additional context, it is important to consider the mitigation requirements that were present prior to the 2015 study. Prior to 2015, the calculation of a home’s size for mitigation purposes was consistent with how it is now – the use of a net floor area calculation that excluded basements, garages, stairs and provided credit for existing Floor Area. However, the mitigation structure was completely different. The idea was that for every 3,000 square feet of net floor area, a home would provide 1 FTE of a “moderate income employee” (an average of Cat 2/Cat 3). Please look to the table below for further illustration of these dynamics that compare two previous mitigation systems with the one now proposed by staff.

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3,240 sf – new home, net Floor Area
7,500 sf – new home, mitigation floor area – includes basement and garage

See table on next page
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<td>1,240</td>
<td>1,240</td>
<td>1,240</td>
<td>7,500</td>
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### Employee Generation per 1000 sf

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<th>2013 Methodology &amp; 2013 FIL</th>
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<tbody>
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### Total Mitigation Requirement (FTE)

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* These numbers are estimates, based on an Employee Generation placeholder of 0.15 FTE per 1000 sf.

The proposed change does not drastically change the employees that a square foot generates, instead, it would reflect a policy change about what square footage counts towards the calculation. In the Proposed Methodology, the primary difference is the inclusion of subgrade and garages in the calculation of mitigation and the elimination of the credit for existing floor area. In the proposal, using this scenario, a 7,500 square foot home would be calculated in total – rather than that same house be calculated at the 1,240 sf calculated using previous versions of mitigation requirements in the Code.

Note: Again, this description is preliminary and could change as the work on the employee generation study is finalized. Staff continues to work with our consultant team to ensure that the mitigation requirements in total are fair and defensible.

### Fee-in-Lieu

In addition to changing calculation methods for employee generation, staff is also proposing in a separate ordinance to increase the Affordable Housing Mitigation Fee-in-Lieu. Per code, staff is directed to propose an annual increase in January of each year using the Engineering News Record National Construction Cost Index. Due to the moratorium, staff did not pursue this change in January, but believes it is appropriate to do this with the other proposed changes resulting from the moratorium so that the total impact can be understood. Based on the index from May of 2021 to May of 2022, it is anticipated that the proposed increase to the FIL will be roughly 8%. Current Category 2 FIL (applicable to single-family and duplex) per FTE: $376,475. With an 8% increase: $406,593.

In the scenario above (7,500 square feet of new home), using the approximate update to FIL:

- Current Code and Current FIL = $75,295 of approximate mitigation ($10.03 / square foot).
- Proposed Change and update to FIL = $459,450 of approximate mitigation ($61.26 / square foot).

As another way of thinking about this proposed change, using the estimate for Employee Generation, the following comparison shows the impact of the new calculation as a percentage of a typical real estate valuation in our current context:

At $2,500 (rough estimate) of value per sq. ft. in the Aspen market of the same 7,500 sf home:

- Current mitigation requirements: .004 (0.4%) of the per square foot value
- Proposed mitigation requirements with update to FIL: .025 (2.5%) of the per square foot value
Policy Question for Council

1) Should the mitigation calculation (which is currently mitigating at 100% of employees generated) for residential redevelopment and additional floor area, be instead calculated at 65%, consistent with lodge and commercial development? Or, as an alternative should the proposed calculation (at 100%) be phased in over time?

Discussion: Staff has heard from Council that parity in AH mitigation requirements between different land uses is a priority. However, the intent of these Council comments has generally been framed within the sentiment that mitigation for residential uses is too low in comparison. Staff presents this question for Council consideration in response to comments received during engagement that the jump between the existing and proposed mitigation is too abrupt and should either be reduced or phased in over time. For example, under the proposed calculation and current assumptions about the generation study, the mitigation required for the 7,500 square foot home would be 1.13 FTE; $425,417 (100%). If we were to make consistent with lodge and commercial uses: 1.13 FTE x .65 = 0.73 FTE, $276,520. For purposes of trying to simplify the overall approach, staff could support the implementation a 65% mitigation rate, but does not recommend a phased implementation.

AH Mitigation Deferral Agreement for Locals

In response to several comments that staff received during consideration of Ordinance 24 and in our engagement efforts on the moratorium, staff is proposing improvements to the deferral agreement that would bring certainty to the value of future mitigation requirements when a resident enters into an agreement. Now, an FTE calculation is included in the agreement, but the future value of the mitigation is unknown as it is tied to the value of the FIL at the time that the agreement is terminated. Rather than be subject to the uncertainty around future updates to the FIL or other changes to mitigation requirements, future valuation of the mitigation would be tied to annual increase in the Consumer Price Index (CPI). In staff’s view, this would provide improved certainty for the resident, create simplicity for current and future staff, and improve the agreement in general terms. Toward this same end, staff also recommends that future mitigation requirements within the deferral agreement should be allowed to be met with fee-in-lieu, by right.

Policy Question for Council

Does Council agree with staff’ recommendation to use CPI as the mechanism for determining future mitigation requirements within a deferral agreement? And the ability to meet future mitigation requirements via fee-in-lieu?

Discussion: Staff agrees with comments from the public that the deferral agreements, as currently implemented create uncertainty and risk for the party entering into the agreement. It is unknown what may happen to future policies or calculations around FIL and other aspects of the mitigation system. In this proposal, the agreement will set a fixed value of mitigation at the time of a building permit and then accelerate this value based on a standard measure of inflation over time. In this way, a person entering into a mitigation today would have some basis on which to evaluate the future obligation. Similar to the amount, the mechanism for meeting the mitigation also has uncertainty built in. If a person

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wanted to end a deferral agreement today, they would be required to extinguish an AH Credit for the mitigation requirement. In our current situation, AH Credits are unavailable or are trading at a price significantly above the current FIL values. By allowing FIL by right in the case of deferral agreements, it further contributes to future certainty.

**100% Affordable Housing Review Process**

As has been previously discussed with Council, staff is proposing that 100% affordable housing projects (Category and RO) that are fully compliant with all other aspects of the Land Use Code, would be reviewed and approved administratively. Currently these projects would most commonly be reviewed by P&Z, but if on a designated property or in a historic district, HPC would review. The purpose of this change is to remove unnecessary and unpredictable review processes for projects that are otherwise compliant with the Land Use Code. The change would also create parity between AH and free-market residential development in the level of staff review and public scrutiny the development types receive. Under the proposal, to qualify for administrative review, these projects would be compliant with the use and dimensional limitations of the underlying zone district, APCHA regulations related to the size and qualities of the units, parking requirements, and residential design standards.

Additionally, the process has been designed to bring clarity to the Land Use application process for 100% AH projects and builds in a development review committee (City staff from development review departments) process to identify and troubleshoot potential issues in setting up the eventual building permit process for a more expedient review.

One topic that is not easily addressed in making these reviews administrative is the relationship to Aspen’s *Historic Preservation Design Guidelines* and the Historic Preservation Commission review process. Any project on a designated property or in a historic district for affordable housing would be of a scope that would necessitate an HPC review. While staff desires to streamline and make more predictable the process in reviewing AH projects, historic preservation review has been essential in maintaining Aspen’s historic, cultural, and architectural character in the face of immense pressure to do otherwise. Staff does not want to undermine this role, but at the same time wants to avoid the weaponization of HPC review criteria by those desiring to create obstacles to the development of affordable housing.

**Policy Question for Council**

1) **How does Council desire to balance the policy outcome that review of AH projects becomes more predictable and streamlined with the important role of HPC review for designated properties and properties in the historic district?**

Discussion: There are three practical responses to this question:

- All compliant AH projects that are not under HPC’s purview will be administrative and those projects under HPC purview will continue to be evaluated by the board. Staff will work within this framework to identify measures to simplify and streamline the review. Or,
- AH projects that are in a historic district, but not on properties that are designated will be a part of the administrative review path. Projects that involve designated properties will remain under HPC purview.
All AH projects will be subject to an administrative review, regardless of designated status or location in a district. This would not preclude an administrative review of a project through the HP Design Guidelines, but would remove the role of HPC.

Options 2 and 3 would fundamentally change the role of HPC and the HP Design Guidelines in evaluating projects that are designated and/or are located in a historic district.

26.710 – Zone Districts

Additional Opportunity for Affordable Housing
In our conversations with Council and with the public during our engagement efforts, staff heard two comments loud and clear:

1) Affordable housing should be allowed and encouraged throughout Aspen.
2) Any affordable housing should be consistent with neighborhood scale and character.

With these two concepts in mind, staff is proposing targeted changes to Chapter 26.710 to eliminate unnecessary obstacles to 100% AH development and to provide some additional opportunity for AH that respects underlying zoning. It should be understood, however, that these changes will not in themselves result in new AH units. Rather, these changes should be viewed as an improved foundation, that when paired with other policies, incentives and subsidies, could result in additional interest in affordable housing from the private sector, and create more predictable and affordable paths for public sector AH development. It is important to note that the proposed changes only apply to projects that are comprised of 100% AH (Category and RO).

As the number of changes is extensive, the following provides a brief identification and description of the proposed changes:

1) In residential zone districts (R-6, R-15, R-15A), triplexes and fourplexes (3 and 4-unit multifamily) would be allowed by right if the project otherwise conformed to the underlying dimensional limitations. For example, in the R-6, the allowable floor area for a duplex on a 6,000 square feet lot, is 3,600 square feet. Under this change, four units could go in where there is currently a limit of two – fitting within the 3,600 square foot limit.

2) In the R-6 and R-15 there are some existing multi-family developments that are currently non-conforming. This means that they are stuck in their current conditions, and if demolished, would need to resort to allowed uses. The proposed change would convert 100% affordable properties, or properties proposed for 100% affordable projects into a conforming use. This would give flexibility for moderate expansion, redevelopment with upgraded or redesigned units, and remove current limitations on even minor upgrades. For these now conforming projects, they would be granted an FAR of .75:1 (which is consistent with the minimum in RMF).

3) Across the residential zones, including RMF, there has been an unintended intersection between the zone district standards and language in the Non-Conformities (26.312) chapter that identifies “non-conforming lots of record”. In staff’s view, the intent of the
code as written is to grant a minimum development right (of a single-family home) on lots that do not meet lot size criteria. Instead, the code has been applied over time to restrict otherwise allowed uses based on lot size criteria. These changes would in several sections and zones provide clarity to this issue. The outcome would be that in the RMF (and other residential zones) that 100% affordable projects would be allowed regardless of the lot size. So, on a 3,000 or 4,500 square foot lot in the RMF (standard lot size is 6,000), 100% AH multifamily could be built, although scaled down accordingly based on the dimensions already identified in the zone district limitations.

4) Across Zone Districts, both residential and commercial (but excluding zones like Park and Open Space), identifying 100% affordable housing as an allowed use. As a result of past code changes this was either intentional or left ambiguous. For the most part, the dimensional and use limitations that are currently in effect are retained (example: AH as an allowed use in the CC – but with limitations. Only on upper floors, and only as part of a mixed-use project). In other circumstances, dimensional changes are proposed. In the Lodge Zone District, 100% AH as a single use is not currently allowed. The proposed change would create this as an allowed use and would establish an FAR of 1.5:1. In this zone, lodge or mixed-use projects are granted an FAR of 2.5 or 2.75:1 depending on lot size. Additionally, in the SCI Zone District, the FAR for affordable in a mixed-use scenario is proposed to increase from .75:1 to 1:1. In the SCI, this would not change the overall massing of a development but would increase the proportion of FAR that could be allocated to AH.

5) It is proposed that any limitations on where AH Credits can be pursued for the development of AH units are removed. This was previously included as a limitation in the CC, C-1, and NC zones. This change would allow projects across zone districts to pursue AH credits.

6) In the Mixed-Use Zone District, it is proposed that new, free-market residential units (single-family, duplex and multifamily) are prohibited and no longer an allowed use. The mechanism and language to implement this are identical to past actions toward this outcome in the CC, C-1, and NC zones. While no new units can be established, existing units remain as conforming uses. This change has two purposes: to preserve the current mix of residential and commercial uses in the zone district and to encourage development of affordable housing. In essence, this amendment would preclude future change of use to additional free-market housing.

**Code changes necessary in support of the primary policy proposals:**

**26.104.100 – Definitions**

The Definitions section of Part 100 contains all of the specific terms utilized throughout the Land Use Code. Because of the complexity and nature of land use and the local conditions found in Aspen, these definitions serve as the basis to understand and implement the provisions of the LUC. Anytime an amendment is done to any section of the LUC, the definitions section often needs to be amended as well, to bring clarity or to make sure that definitions align with the altered policy or regulation.
To respond to proposed changes elsewhere in the LUC, staff is recommending changes to the Definitions section identifying new terms and revising definitions on three topics: floor area, demolition, and affordable housing. It is staff’s intention that these changes will bring needed clarity to topics that are often confusing for customers and staff and will support important the other amendments.

Floor Area – Under current regulations and definitions, staff uses the same calculation for Floor Area to determine both compliance with dimensional limitations and to calculate affordable housing mitigation. With the policy proposal to include subgrade and other areas that are currently excluded from Floor Area calculations for affordable housing mitigation related to residential development, new or modified terms and definitions are needed.

Demolition – In support of the use of the GMQS allotment system for projects that trigger Demolition, existing terms needed to be better defined and new terms were identified. These definitions are supported by a new section of Code, 26.580, that is further described below.

Affordable Housing – There are three new terms added related to AH development:

- **100% Affordable Housing** – this is a term that is necessary to give definition to the types of projects that qualify for new zoning flexibility – and includes both Category and RO units.
- **Triplex** – a three-unit multifamily project that could be located in residential zones that are currently limited to single-family and duplex, if 100% affordable.
- **Fourplex** – a four-unit multifamily project that could be located in residential zones that are currently limited to single-family and duplex, if 100% affordable.

**26.212 – Planning and Zoning Commission**
Planning and Zoning Commission would be the review body to consider an appeal of the Community Development Director’s determination that a project has triggered Demolition.

**26.312 – Non-Conformities**
The proposed changes to the Non-Conformities chapter are relatively minimal, but impactful in bringing clarity to the differentiation of projects that trigger the 40% Demolition threshold versus projects that simply destroy a non-conforming portion of a building.

**26.312 – Appeals**
The proposed change aligns the Appeals chapter with the change to 26.212, Planning and Zoning Commission, described above.
26.430 – Special Review
If a project was pursuing a Demolition allotment and proposed a variation from any of the identified standards, an application could request a Special Review by the Planning and Zoning Commission.

26.540 – Certificates of Affordable Housing Credits
Under current code, the issuance of Certificates of Affordable Housing Credit requires review by P&Z or HPC in spite of the very formulaic nature of the review criteria. There is very little or no discretion. Staff proposes changing this to an administrative review – consistent and in conjunction with the GMQS administrative review for 100% affordable housing projects.

26.575.020 – Calculations and Measurements
There are three primary changes proposed to this section of the code that serves as the basis for how staff and the design community measure our built environment.

1) First, there is new text that supports the definitional changes to floor area that were described above in 26.104.100. Again, these definitional changes are necessary to distinguish the calculation of a homes area for the purpose of aligning with allowable floor area in the zone district standards (mass and scale) versus the calculation for the determination of AH mitigation.

2) The second changes are in support of the goal of encouraging remodels and upgrades to existing homes, rather than full demolition. Under current code, if a home or a portion of a home was built to the limits of their setbacks or their height, it would not be possible to upgrade the insulation in the wall or roof assemblies for improved energy performance without requesting a Variance – and the criteria for getting a Variance are difficult to cross. The proposed code changes would allow existing homes to exceed their setbacks or height limitations by a maximum of 8 inches to accommodate insulation upgrades (increased R-value) and/or to add materials that make the home more resistant to wildfires. The 8 inches dimension was identified to provide the flexibility to allow an addition of up to 6 inches of additional insulation. This could help to increase the wall or ceiling assembly performance of an existing structure by R-20 to R-30.

Similarly, staff proposes additional flexibility for upgrades to mechanical equipment and related screening for existing homes where the site conditions and current regulations preclude mechanical equipment that is getting increasingly larger and taller as it becomes more efficient.

3) Lastly, the current code allows for some flexibility for dimensional standards in order for a project to comply with building codes or in the pursuit of energy efficiency. The changes give additional flexibility and streamlines process when the Community Development Director applies discretion to situations that cannot meet dimensional limitations, but where building code compliance or improved energy efficiency is in the best interest of the community or the project.

26.580 – Demolition
This new section of the Land Use Code applies to demolition of all use types within the City. However, emphasis is given to Residential projects by outlining important requirements in the measure of demolition, the 40% Demolition threshold, review processes – including appeals, and importantly the adoption process for the Residential Demolition and Redevelopment Standards (RDRS) that are at the heart of the review for the allocation of a GMQS Demolition Allotment.
(described earlier in this memo). The RDRS will live outside of the Land Use Code much like our Historic Preservation Guidelines, Commercial Design Guidelines, and Aspen’s Wireless Telecommunications Facilities Design Guidelines. This allows these documents to be more flexible over time as the process to amend them, while requiring Council approval, would not require the process for a full amendment to the Land Use Code.

CONCLUSION AND NEXT STEPS:
During the Work Session, staff intends to have a structured discussion on the proposed policy. The discussion will provide space for Council questions, individual Council member comments, and an opportunity for staff to gauge Council consensus on difficult topics. In addition, throughout the memo, a series of policy questions have been raised. Restated below, these specific questions have arisen since the last Work Session on these topics.

Demolition
- What should the total number of allotments for Demolition be in a given year?
- Does Council agree with the staff recommendation to utilize an administrative review for the issuance of Demolition Allotments?

Mitigation
- Given that generation rates and the amount of square footage included in AH mitigation calculations may increase, should the mitigation calculation (which is currently mitigating at 100% of employees generated) for residential redevelopment and additional floor area, be instead calculated at 65%, consistent with lodge and commercial development? Or, as an alternative should the proposed calculation (at 100%) be phased in over time?

Deferral Agreement
- Does Council agree with staff recommendation to use CPI as the mechanism for determining future mitigation requirements within a deferral agreement? And the ability to meet future mitigation requirements via fee-in-lieu?

Affordable Housing Review Process
- How does Council desire to balance the policy outcome that review of AH projects becomes more predictable and streamlined with the important role of HPC review for designated properties and properties in the historic district?

Following discussion and direction from Council, staff will finalize draft code language. Proposed Ordinances will be reviewed and considered in the following meetings:

- Planning and Zoning Commission for Recommendation: June 7th
- City Council, Regular Meeting – First Reading: June 14th
- City Council, Regular Meeting – Second Reading: June 28th

RECOMMENDATIONS:
Staff recommends a robust discussion that includes questions and comments from Council, direction from Council on the specific policy questions, and any requests for additional information for Council consideration at First Reading.
EXHIBITS:
A – Community Case Studies
B – Residential Development Impacts
C – Buy Down and Fee-in-Lieu Analysis
D – Affordable Housing Zoning Analysis
Shaping Aspen's Built Environment

RESIDENTIAL BUILDING

OUTREACH SUMMARY
MAY 5, 2022

PREPARED BY DESIGN WORKSHOP AND CITY EXPLAINED INC.
In early January 2022, less than one month after the moratorium was declared, the City of Aspen began its planning process for the Aspen Moratorium Residential Building Project. The Residential Building Project was in response to Aspen City Council recently pausing residential development to explore solutions that will improve the Land Use Code regulations and respond to changes in the pace and scale of free-market development in Aspen. The project launched with an exercise aimed at defining engagement goals and objectives, in addition to understanding the various anticipated stakeholders involved and how best to communicate with them. This process culminated in a detailed Public Engagement Plan - utilizing values and ethics from the International Association of Public Participation (IAP2) - which defines the development context, promise to the public and how feedback would be put into action.

**Development Context:** Aspen City Council instituted moratoria, Ordinance No. 27, Series 2021, Ordinance No. 6, Series 2022, and then Ordinance No. 8, Series 2022 (passed on May 3, 2022 and extends moratorium until August 8, 2022) on residential building to allow for a period to evaluate current and future residential community development in Aspen. The Pause allows the community space to think critically about how to address key challenges related to stressors on Aspen’s built environment, including:

- Pace and scale of residential development.
- Affordable housing development and mitigation.
- Development procedures within the Land-Use Code including demolition.
- Construction and environmental impacts of development.
- Development impacts on utilities and waste.

**Promise to the Public:** The project team identified the need to work with the Aspen community in a bespoke engagement initiative focused on targeted conversations that determine community concerns and ideas for policy change thresholds. The engagement approach focuses on:

- **Informing** the community-at-large (public) of the project by providing balanced and objective information to assist them in understanding the “problem”, what alternatives may be appropriate, and what opportunities and/or solutions there might be to address change to current City policy.
- **Consulting** with internal and external stakeholders to obtain feedback on current process successes and barriers, data analysis, policy alternatives, and involve them throughout the process to ensure their concerns and aspirations are consistently understood and considered.
- **Involving** technical stakeholders on specific discrete policy questions that can further the data analysis and proposed code changes.

**Putting Feedback into Action:** The project team identified the need to work diligently to summarize engagement initiatives and findings in real-time to provide for a continuous information loop in and out of the policy development process in order to:

- Set clear expectations with stakeholders and the community on engagement activities and how their feedback will be considered or incorporated in the policy development process.
- Provide status updates through Aspen Community Voice and make engagement summaries readily available to the public.

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**OUTREACH SUMMARY: PROJECT PLANNING AND SCHEDULE**

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The chart below illustrates concurrent project planning efforts and data analyses with arrows indicating where data, information, outreach results and community discussions are informing project components.
Public engagement focused on facilitating dialogue about an aspirational vision for the community. A variety of mechanisms and tools were used to share information including targeted discussions with technical stakeholders, focus groups, and informal popups located throughout the City. The project team created a webpage on Aspen Community Voice that hosts project information, outreach opportunities, key project dates, events, meeting registrations and documents for review.

Through a series of online tools on Aspen Community Voice and questions developed for technical stakeholders and community members alike, the project team gathered data points to assist Aspen City Council and staff in furthering project discussions around:

- The pace and scale of residential development.
- The development of affordable housing.
- Development procedures within the LUC.
- Demolition and construction trends.
- Environmental and climate trends.
- Landfill and waste trends.
- Size and scale of homes being built.
- Energy impacts from residential development.
- Environmental and climate trends.
- Landfill and waste trends.
- Size and scale of homes being built.
- Energy impacts from residential development.

These discussions, held both in-person and virtually, began with the launch of Aspen Community Voice on February 8, 2022, and continued with Round #1 engagement which consisted of stakeholder interviews throughout February and a six-day intensive engagement initiative from Saturday, March 5 through Thursday, March 10, 2022. Engagement included focus groups and a series of pop-up events at venues and locations in different Aspen neighborhoods. Each event type offered a different style of discussion with the project team:

- **Pop-Ups (Inform)** - Information sharing and values-based discussions based upon community members experiences living and working in Aspen.
- **Stakeholder Interviews (Consult)** - Deep dive into subject matter based upon collective expertise of interviewees to better understand existing conditions and development trends.
- **Focus Groups (Involve)** - Data- and values-driven conversations based upon initial data findings and policy questions pertaining to discussion points outlined above.

The results of these conversations informed the project team’s data analyses and development of proposed code changes for discussion in Round #2 of engagement. The second round of engagement began on March 16, 2022 and consisted in-depth conversations focused on presenting and discussing in-depth policy changes, potential effects of change, and rollout of changes to the Land Use Code:

- **Pop-Up (Inform)** - Information sharing and values-based discussions based upon community members experiences living and working in Aspen.
- **Stakeholder Interviews (Consult)** - Deep dive into subject matter based upon collective expertise of interviewees to better understand existing conditions and development trends.
- **Focus Groups (Involve)** - Data- and values-driven conversations based upon initial data findings and policy questions pertaining to discussion points outlined above.
- **Open House (Consult)** - Information sharing and values-based conversations based upon community members experiences living and working in Aspen.
The activities listed below illustrate the engagement activities that included technical stakeholder interviews, focus groups and pop-up events between February 8 and May 2, 2022. In total, there were approximately 330+ participants across Aspen Community Voice (47), stakeholder interviews (31), focus groups (29), and Pop-Ups (204).

**1. FRIDAY, FEBRUARY 4, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**2. TUESDAY, FEBRUARY 8, 2022**
Launch of Aspen Community Voice: Shaping Aspen’s Built Environment Residential Building Project and online engagement activities.

**3. MONDAY, FEBRUARY 14, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**4. TUESDAY, FEBRUARY 15, 2022**
Technical stakeholder interview on utilities, consumption, residential development, and environmental impacts.

**5. TUESDAY, FEBRUARY 15, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**6. TUESDAY, FEBRUARY 15, 2022**
Technical stakeholder interview on impacts of residential development, landfill patterns, and climate goals.

**7. WEDNESDAY, FEBRUARY 16, 2022**
Technical stakeholder interview on environmental impacts of residential development, landfill patterns and climate goals.

**8. WEDNESDAY, FEBRUARY 16, 2022**
Technical stakeholder interview on affordable housing, mitigation, development patterns, environment, and growth management.

**9. SATURDAY, MARCH 5, 2022**
Pop-Up event at the Aspen Pedestrian Mall from 1-4:30pm highlighting project data and seeking feedback from community members.

**10. WEDNESDAY, FEBRUARY 16, 2022**
Technical stakeholder interview on affordable housing costs, existing development patterns, demolition, and impacts of construction.

**11. WEDNESDAY, FEBRUARY 16, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**12. WEDNESDAY, FEBRUARY 16, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**13. MONDAY, FEBRUARY 21, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**14. MONDAY, FEBRUARY 21, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**15. MONDAY, FEBRUARY 21, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**16. WEDNESDAY, FEBRUARY 23, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**17. WEDNESDAY, FEBRUARY 23, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**18. WEDNESDAY, FEBRUARY 23, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**19. SUNDAY, MARCH 6, 2022**
Pop-Up event at the Aspen Pedestrian Mall from 12-1:30pm highlighting project data and seeking feedback from community members.

**20. SUNDAY, MARCH 6, 2022**
Pop-Up event at the Red Mountain Grill from 3-6pm highlighting project data and seeking feedback from community members.

**21. MONDAY, MARCH 7, 2022**
Aspen Board Member Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**22. MONDAY, MARCH 7, 2022**
Technical Stakeholder Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**23. MONDAY, MARCH 7, 2022**
Technical Stakeholder Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**24. MONDAY, MARCH 7, 2022**
Technical Stakeholder Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**25. TUESDAY, MARCH 8, 2022**
Technical Stakeholder Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**26. WEDNESDAY, MARCH 9, 2022**
Technical Stakeholder Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**27. SUNDAY, MARCH 6, 2022**
Community Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**28. SUNDAY, MARCH 6, 2022**
Community Focus Group on the pace and scale of residential development, affordable housing, and development procedures.

**29. MONDAY, MARCH 13, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**30. TUESDAY, MARCH 14, 2022**
Pop-Up event at the Highlands Ale House from 1-3pm highlighting project data and seeking feedback from community members.

**31. THURSDAY, MARCH 10, 2022**
Pop-Up event at the Gant Hotel from 5-8pm highlighting project data and seeking feedback from community members.

**32. FRIDAY, MARCH 18, 2022**
Pop-Up event at the Burlingame Commons from 6-7:30pm highlighting project data and seeking feedback from community members.

**33. WEDNESDAY, MARCH 16, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**34. TUESDAY, MARCH 22, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**35. FRIDAY, MARCH 25, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**36. FRIDAY, MARCH 25, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**37. THURSDAY, MARCH 24, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**38. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**39. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**40. MONDAY, APRIL 11, 2022**
Launch of Aspen Community Voice Questionnaire on proposed policy directions.

**41. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**42. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**43. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**44. MONDAY, APRIL 11, 2022**
Technical stakeholder interview on the pace and scale of residential development, affordable housing, and development procedures.

**45. WEDNESDAY, APRIL 13, 2022**
Technical stakeholder focus group on initial policy direction for affordable housing, dimensional requirements, demolition, and mitigation.
In order to meet the goals outlined by the project team, it was important to employ a variety of tools to ‘get the word out’ about the project and go to locations that were geographically spread out around Aspen. The project team utilized several channels to create project awareness, which included: Aspen Community Voice (www.aspencommunityvoice.com), Aspen Daily News advertisements, Aspen Times advertisements, Twitter (@cityofaspen), Facebook posts and advertisements, Instagram, newsletters (ACRA, Colorado Conversations, and Community Development Updates), targeted event mailers for specific neighborhoods, and project posters put up at various locations between Basalt and Aspen. This coordinated communications and outreach initiative was intended to maximize information shared with the community and clearly identify opportunities for community members to engage with the project team both in-person and virtually. Below are some of the key numbers and figures of the communications effort and community participation.

**COMMENTS**

- 42 DAYS
  - Continuously running digital ads in Aspen Times and Aspen Daily News

- 380K+
  - Digital ad impressions between Aspen Times and Aspen Daily News

- 14
  - Newsletter updates to technical stakeholders and Aspen community members

- 595
  - Aware Visitors to the Shaping Aspen's Built Environment + project page

- 150
  - 11x17 Posters placed in venues between Basalt and Aspen

- 579
  - Targeted Event Mailers for the Red Mountain Grill Pop-Up

- 352
  - Targeted Event Mailers for the Aspen Highlands Pop-Up

- 1,344
  - Targeted Event Mailers for the Gant Hotel Pop-Up

- 838
  - Targeted Event Mailers for the Red Brick Pop-Up

**ENGAGEMENT EVENTS**

- 330+
  - Interviews, surveys, focus groups, and Open House and Pop-Up event participants

- 65+
  - Hours of conversation between the project team and participants

- 46
  - Events including interviews, surveys, focus groups, an Open House, and Pop-Ups

- 484
  - Dot-votes on policy direction questions during Round #2 of engagement

- 500+
  - Open ended comments received across all engagement events

- 22
  - Potential policy changes discussed and vetted with technical stakeholders

- 31
  - Technical Stakeholder Interviews hosted during Rounds #1 and #2

- 9
  - Technical Stakeholder and Community Focus Groups

- 11
  - Pop-Up and Open House events between February 8 and May 2, 2022

**ASPEN COMMUNITY VOICE**

- 1.3K
  - Visits to the Shaping Aspen’s Built Environment + Residential Building page

- 970
  - Aware Visitors to the Shaping Aspen’s Built Environment + project page

- 97
  - Responses to online activities - Ideas, Stories, and Surveys

- 261
  - Informed Visitors to the Shaping Aspen’s Built Environment + project page

- 53
  - Unique contributors to online activities - Ideas, Stories, and Surveys

- 22
  - Surveys completed supplementing Open House and Focus Group Qs

- 655
  - Total participant visits to the project page

- 28
  - Participants downloaded Key Documents from the project page

- 815
  - Project page visits were in response to ACV newsletters
OUTREACH SUMMARY: ROUND #1 KEY FINDINGS AND PARTICIPANT FEEDBACK

General outreach trends included the use of virtual and hybrid meetings to allow participants to have equitable and safe access to events and discussions with the project team in response to COVID-19 restrictions. A particular focus was given to having in-depth conversations and allowing for deep-dives into the subject matter in order to attain high-quality qualitative data to support ongoing data analyses and case study work being conducted. Of particular note was the duration of time that attendees spent at events, with the majority of Pop-Up events having a significant number of participants in attendance for longer than one hour. Many participants were grateful to have the opportunity to meet with the project team ‘where they were’ and appreciated the events being spread out across town. Below is a summary of high-level findings from discussions (Aspen Community Voice, Interviews, Focus Groups and Pop-Ups) on affordable housing development, affordable housing mitigation, demolition, construction and environmental impacts, size of homes, utilities and waste. Key findings do not represent consensus but rather indicate either a majority response or important discovery through conversations with technical stakeholders and community members.

<table>
<thead>
<tr>
<th>THEME</th>
<th>NO.</th>
<th>KEY FINDINGS</th>
<th>PARTICIPANT FEEDBACK</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFFORDABLE HOUSING DEVELOPMENT</td>
<td>1</td>
<td>THE LARGEST BARRIER TO AFFORDABLE HOUSING IS COST</td>
<td>When asked where they thought affordable housing was appropriate, 65% of participants felt that affordable housing was appropriate everywhere in Aspen in all zone districts. Some participants felt that affordable housing was appropriate in specific areas of town and indicated areas such as Maroon Creek, Burlingame, the West End, and the East End of Aspen as areas that may be most appropriate.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>NEED TO MAKE AFFORDABLE HOUSING THE MORE ATTRACTIVE OPTION FOR MITIGATION - TIME AND CERTAINTY ARE THE BEST INCENTIVES</td>
<td>A majority of respondents believe that affordable housing is appropriate everywhere, with many participants stating that it should be compatible with surrounding neighborhood character.</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>INTEREST IN EXPANDING AFFORDABLE HOUSING ALLOWANCES TO MORE ZONE DISTRICTS</td>
<td>Many participants noted that even if affordable housing is allowed in all zone districts, it does not diminish the need to address cost as the biggest barrier to development. Participants were interested in the City exploring additional tools (both incentives and requirements) to reduce barriers to the development of affordable housing. Participants gave recommendations on potential incentives that could be utilized to promote the development of affordable housing, such as priority permitting, superseding zoning requirements, and by-right approval as potential options to help reduce current barriers to the development of affordable housing by the private sector.</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>THERE ARE EASIER ALTERNATIVES TO BUILDING AFFORDABLE HOUSING</td>
<td>More than half of participants felt that all residential projects should mitigate for their impacts on the community with a smaller group of participants indicating that they would be open to full-time residences being exempt from having to provide mitigation for redevelopment.</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>THE CURRENT CREDIT SYSTEM IS ALMOST DEPLETED OF CREDITS TO PURCHASE</td>
<td>Most participants acknowledged that the current code allows for several options to provide mitigation for affordable housing and that some have less barriers than others. Some participants suggested that the current affordable housing credit system, while very effective, has started to run out of credits and there may be new tools to re-invigorate the program including the city taking a more active role in the program. Some ideas include the city taking a more active role in the program by creating credits through city projects and/or looking into a dedicated staff position that could ease barriers in the application and permitting process and develop public-private partnerships. Participants suggested that the city work to identify a benchmark for the creation of housing units, which can be used to measure existing and long-term needs.</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>THE CITY SHOULD EXPLORE ESTABLISHING A TARGET GOAL FOR UNITS OF AFFORDABLE HOUSING</td>
<td></td>
</tr>
</tbody>
</table>

65% WHERE DO YOU THINK AFFORDABLE HOUSING SHOULD GO?

57% MITIGATION
When asked about construction impacts and trade-offs, 68% of participants expressed that they would be willing to give up space in the right-of-way, including parking spaces, in the short-term in order to implement better environmental practices to reduce immediate stress on the landfill and on the community in general.

### Theme: Demolition

<table>
<thead>
<tr>
<th>No.</th>
<th>Key Findings</th>
<th>Participant Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>INCENTIVIZE DECONSTRUCTION OVER DEMOLITION</td>
<td>When asked about the appropriateness of deconstruction versus demolition, 72% of participants felt that projects should be encouraged to perform deconstruction over current demolition methods. Deconstruction is when a home is taken down piece by piece in order to promote the recycling or reuse of building materials. Demolition allows for a building to be razed without requiring any materials to be recycled.</td>
</tr>
<tr>
<td>8</td>
<td>CURRENT CODE THRESHOLDS FOR DEMOLITION SHOULD BE EXPLORED TO ENSURE BETTER ALIGNMENT WITH ENVIRONMENTAL POLICIES AND CITY GOALS</td>
<td>In Aspen, if more than 40% of an existing structure is razed, disassembled, or torn down it is considered demolished. The Land Use Code provides calculation methods for demolition, which is applied cumulatively across the lifespan of a structure. While many participants felt that the calculation generally works, they also expressed that at times the rigidity of the calculations can be problematic and cause unintended complexities. Specifically, this is seen when home owners attempt to heavily remodel or renovate instead of fully demolish a structure. Participants felt that the different requirements across City departments also can add a layer of unintended complexity where projects can meet one department’s requirement for demolition but be above the threshold for another. Participants were highly supportive of incentivizing deconstruction and provided detailed comments on some of the new ideas and programs in the Valley that have been really effective at recycling materials.</td>
</tr>
<tr>
<td>9</td>
<td>THE DEMOLITION CALCULATION METHODOLOGY MAY BE CREATING UNINTENDED OUTCOMES</td>
<td></td>
</tr>
</tbody>
</table>

### Theme: Residential Construction

<table>
<thead>
<tr>
<th>No.</th>
<th>Key Findings</th>
<th>Participant Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>RESIDENTIAL CONSTRUCTION HAS INCREASED OVER THE LAST SEVERAL YEARS</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>DECONSTRUCTION SIGNIFICANTLY INCREASES THE AMOUNT OF MATERIALS RECYCLED AND REDUCES PRESSURE ON THE LANDFILL</td>
<td>Many participants were in agreement that construction in Aspen has had impacts on the local environment - including impacts to the longevity of the Pitkin County Landfill and increased truck traffic in and out of Aspen during active site work. Many participants noted programs and tools currently being used by construction companies in the Valley, and the County, that are significantly increasing the amount of materials being recycled from deconstruction and suggested the city adjust current demolition requirements to be more sustainable. Some participants expressed an interest in managing construction volumes and impacts to locals’ quality of life.</td>
</tr>
<tr>
<td>12</td>
<td>THE CITY SHOULD EXPLORE INCENTIVIZING OR REQUIRING DECONSTRUCTION FOR RESIDENTIAL BUILDING PROJECTS</td>
<td></td>
</tr>
</tbody>
</table>

### Theme: Size of Homes

<table>
<thead>
<tr>
<th>No.</th>
<th>Key Findings</th>
<th>Participant Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>HOMES ARE BECOMING INCREASINGLY MORE COMPLEX AND HAVE A HIGHER VALUATION</td>
<td>When asked about the size of new homes in Aspen, 26% of participants felt that the scale of residential projects in Aspen is appropriate. The majority, 46%, felt that the scale is inappropriate, with the remaining participants stating that the conversation may be more nuanced.</td>
</tr>
<tr>
<td>14</td>
<td>CONVERSATION AROUND APPROPRIATE SIZE OF HOMES IS NUANCED</td>
<td>Participants had mixed feelings surrounding residential development trends. A large number of participants felt that that scale of homes was inappropriate and that newer homes were larger; but another group of participants felt that the size of homes was appropriate and that size trends have not changed. However, many participants agreed that newly constructed homes have changed in their complexity and require additional maintenance that can necessitate additional employees, caretakers, and vehicle trips in and out of Aspen.</td>
</tr>
</tbody>
</table>

### Theme: Construction and the Environment

<table>
<thead>
<tr>
<th>No.</th>
<th>Key Findings</th>
<th>Participant Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>CONVERSATION AROUND APPROPRIATE SIZE OF HOMES IS NUANCED</td>
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</tbody>
</table>
# Shaping Aspen's Built Environment

## Residential Building

### Outreach Summary: Round #1 Key Findings and Participant Feedback

<table>
<thead>
<tr>
<th>Theme</th>
<th>No.</th>
<th>Key Findings</th>
<th>Participant Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilities</td>
<td>15</td>
<td>Utilities are limited resources that will experience increased demand over time</td>
<td>There is a cohesive understanding amongst participants that the due to the constraints of Aspen's environmental and legal regulations, Aspen residents must be cautious of their utility use. Water and electricity are both limited resources. Resource scarcity, both locally and nationally, is a concern and there may be a point where the cost of utilities exceeds what the average home can afford. To be proactive, participants suggested that the City think of sustainable alternatives, and work across departments, to ensure complementary policies are put in place. Participants noted that the complexity of new homes and their associated electric usage has already started to put stress on the existing electric grid with examples of individual homes having transformers on-site. Participants also brought up ideas for this such as hardening the electricity grid and adapting infrastructure delivery to support future demands of development.</td>
</tr>
<tr>
<td>Utilities</td>
<td>16</td>
<td>Delivery of future infrastructure needs will need to be better coordinated with land use policies</td>
<td></td>
</tr>
<tr>
<td>Waste</td>
<td>17</td>
<td>Pitkin County's landfill is nearing capacity</td>
<td>Participants noted that there are opportunities for the City to adopt and/or expand on Pitkin County waste and recycling regulations, which were adopted in 2019, and have suggested exploring additional staff positions to help monitor recycling, deconstruction, and demolition of residential developments in order to create more structure and monitoring of building material waste. Current data indicates that construction and demolition activities are contributing more that half of the waste that ends up in the landfill each year which is an increase from the 2016 Pitkin County Landfill analysis of construction and demolition debris which indicated that 35% of the materials could have been recycled or reused.</td>
</tr>
<tr>
<td>Waste</td>
<td>18</td>
<td>There has been a significant increase in demolition waste going to the landfill - the majority of which is from residential projects</td>
<td>Additionally, participants felt that there may be opportunities to incentivize deconstruction over demolition and implement additional sorting facilities at the landfill. Participants highlighted the local market for recycled materials, noting that concrete, rock, dirt, steel and other materials are seeing reasonably strong demand within the Roaring Fork Valley.</td>
</tr>
</tbody>
</table>
Shaping Aspen's Built Environment

RESIDENTIAL BUILDING

OUTREACH SUMMARY: ROUND #2 PARTICIPANT SENTIMENTS ON PROPOSED POLICIES

During Round #2 of engagement, the project team honed in on specific policy statements to share with technical stakeholders, community stakeholders, and the general public in order to assess community sentiment on different ideas and solutions that emerged from Round #1 of community engagement, the project data analyses, and conversations with subject matter experts. The policies listed below showcase the overarching policy areas, topics, proposed policies, and a heat map of community sentiment that uses GREEN for "Support", YELLOW for "Support with conditions" and RED for "Do not support". These results are cumulative responses from the April 13-15 2022 Focus Groups, the April 27 Open House, the April 30 Pop-Up Event at the Aspen Pedestrian Mall, and the Residential Building Questionnaire from Aspen Community Voice and include the opinions of technical stakeholders AND community members illustrating the spectrum of sentiment across professionals in development and design, residents, community organizations, Aspen Board members, and local employees. More detail on the individual events can be found in the Appendices following.

<table>
<thead>
<tr>
<th>POLICY NO.</th>
<th>TOPIC AREA</th>
<th>PROPOSED POLICIES</th>
<th>COMMUNITY RESPONSE (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A LOCATION</td>
<td>AFFORDABLE HOUSING DEVELOPMENT</td>
<td>1. Allow multi-family affordable housing to be developed in all residential zone districts. Density allowances would be increased, but existing floor area and other dimensional limitations would remain in place.</td>
<td>53 34 13</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Create an administrative review path for affordable housing projects.</td>
<td>69 12 18</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Eliminate non-conformity limitations for non-conforming lots of record for projects that are 100% affordable housing.</td>
<td>67 33 0</td>
</tr>
<tr>
<td>B HOUSING MITIGATION</td>
<td></td>
<td>1. Update employee generation rates to reflect impacts of construction and long-term operation of residential</td>
<td>77 12 11</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Update mitigation calculations to be based on &quot;liveable area&quot; rather than &quot;floor area.&quot;</td>
<td>41 26 33</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Eliminate the credit for existing square footage that did not previously provide affordable housing mitigation.</td>
<td>31 22 47</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Update the deferral agreement for local residents.</td>
<td>83 9 9</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Consider and evaluate a depreciation factor for affordable housing mitigation for residents. Mitigation requirements would be deferred for local residents while living in their home, and the required mitigation due would depreciate over time.</td>
<td>43 31 25</td>
</tr>
<tr>
<td>C FREE MARKET UNITS IN MIXED-USE ZONE</td>
<td></td>
<td>1. Allow existing free-market residential units to be updated and redeveloped in the Mixed-Use Zone District (MU), but prohibit the establishment of new free market units or existing uses being converted into free market units.</td>
<td>56 44 0</td>
</tr>
</tbody>
</table>
### OUTREACH SUMMARY: ROUND #2 PARTICIPANT SENTIMENTS ON PROPOSED POLICIES

#### DEMOLITION

<table>
<thead>
<tr>
<th>POLICY NO.</th>
<th>TOPIC AREA</th>
<th>PROPOSED POLICIES</th>
<th>COMMUNITY RESPONSE (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td><strong>PROPOSED ALLOTMENTS</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1. Implement a growth management allotment system for demolition projects. The allotments would be part of the 19 allotments currently available for free-market units.</td>
<td>24 27 49</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Use performance criteria to evaluate applications for demolition allotments.</td>
<td>31 41 28</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Creation of a framework of performance standards and expectations for demolition projects that can be adjusted over time to respond to new trends and community desires related to projects that have significant construction and other impacts</td>
<td>86 14</td>
</tr>
<tr>
<td></td>
<td>B</td>
<td><strong>CALCULATIONS</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1. Bring clarity to the definition and calculation of Demolition.</td>
<td>91 7 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Incorporate exemptions or adjusted applicability statements for certain projects to be exempt from the provisions of demolition (ex; unsafe structures, water damage, acts of god, etc.)</td>
<td>87 11 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Continue to evaluate Demolition threshold and calculation measurements.</td>
<td>56 44</td>
</tr>
<tr>
<td></td>
<td>C</td>
<td><strong>TRACKING</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1. Implement a tracking system for cumulative demolition that &quot;resets&quot; after five (5) to ten (10) years of a Certificate of Occupancy (CO).</td>
<td>50 31 19</td>
</tr>
<tr>
<td>POLICY NO.</td>
<td>TOPIC AREA</td>
<td>PROPOSED POLICIES</td>
<td>COMMUNITY RESPONSE (%)</td>
</tr>
<tr>
<td>------------</td>
<td>------------</td>
<td>-------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>A SETBACKS</td>
<td>1. Allow encroachments into setbacks for certain energy improvements, fire protection, etc.</td>
<td>49 31 20</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Allow increased encroachments into setbacks for subgrade mechanical structures.</td>
<td>56 29 15</td>
<td></td>
</tr>
<tr>
<td>B HEIGHT</td>
<td>1. Allow exterior energy improvements to a building roof to exceed building height.</td>
<td>44 33 23</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Allow mechanical equipment height increases that accommodate efficient equipment.</td>
<td>54 25 21</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Increase allowances for the development of solar panels (height or setbacks) or create an administrative review path.</td>
<td>56 31 13</td>
<td></td>
</tr>
<tr>
<td>C FLOOR AREA</td>
<td>1. Bring consistency and clarity to the terms, dimensions and calculations in measuring the internal, horizontal areas of a building Occupancy (CO).</td>
<td>80 18 2</td>
<td></td>
</tr>
<tr>
<td>APP A</td>
<td>ROUND #1 STAKEHOLDER INTERVIEWS SUMMARY</td>
<td>1</td>
<td></td>
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<tr>
<td>APP B</td>
<td>ROUND #1 FOCUS GROUP SUMMARY</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>APP C</td>
<td>ROUND #1 ACV AND ENGAGEMENT EVENTS</td>
<td>17</td>
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</tr>
<tr>
<td>APP D</td>
<td>ROUND #2 APRIL FOCUS GROUP SUMMARY</td>
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<tr>
<td>APP E</td>
<td>ROUND #2 APRIL OPEN HOUSE AND POP-UP SUMMARY</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>APP F</td>
<td>ROUND #2 STAKEHOLDER INTERVIEWS SUMMARY</td>
<td>29</td>
<td></td>
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</tbody>
</table>
APPENDIX A: ROUND #1 STAKEHOLDER INTERVIEWS SUMMARY

The team interviewed City departments and technical stakeholders in design and development industries in Aspen. This document contains the combined comments from those meetings. Comments below are organized by major topic areas for discussion, the questions asked, and participant responses. Responses were noted by project team staff and edited for legibility, tone, and tenor.

I. AFFORDABLE HOUSING MITIGATION

A. Do you feel the full-time employee (FTE) levels established in the Growth Management Quota System (GMQS) chapter are reflective of the real impact of housing on employment?
   - New employees include maintenance, upkeep, remodels, landscapers, and property managers.
   - These levels are not reflective.
   - No one necessarily complains about the fees. - Fees are too low given how much labor is required for property upkeep.
   - Most tasks within new large and complex homes may require help.
   - I can understand the conversation related to full-time employees, gross number calculation, and mitigation. The credits being discussed and the difference in what is happening is a drastic difference in what the City was discussing. There are no credits available, but unless the City accepts cash-in-lieu, or the City sends own then there is no way to develop.

B. Do you have ideas related to what fee-in-lieu rates should include? For instance, should it cover the cost to build a new affordable housing unit, the cost to buy-down an existing unit, etc.?
   - Buying down units is a difficult task. Not certain where else in the community buydowns can actually be achieved.
   - Aspen will need to look at the impacts of constructing additional units. That has impacts of its own.
   - Not entirely convinced that the massive construction of units is appropriate.

C. The City is exploring opportunities to change affordable housing mitigation requirements for residential development. A major change would require that sub-grade spaces (basements) would be counted toward mitigation requirements and the credit for existing floor area would be eliminated in scenarios where demolition occurs. In your opinion, does this seem an appropriate response in mitigating the impacts of residential development?
   - It is rational, though it has an impact on people who might be wanting to do modest additions or changes. Not sure it is appropriate.
   - Seen excessive basement development, but that is now regulated by double basement limitation.
   - Residential housing is being developed at a size and scale that makes it more commercial as STR vs. being truly residential.
   - The City should explore as many strategies as possible to keep the community character of neighborhoods.
   - Some aspect of the market is ready to accept anything that is thrown at them. But need to keep being mindful of individuals and families that want to make an addition to their house but are unable to because of fee and mitigation requirements.
   - Cost of utility delivery in Aspen is more expensive than throughout the Valley as are a host of other well-intentioned requirements and exactions.
   - There is an element of mitigation that is current to the type of housing that is being built today. There is a lot of room in the profit of market rate development still.

II. AFFORDABLE HOUSING DEVELOPMENT

A. Are there particular neighborhoods or zone districts that you think should allow more density to enable affordable housing development?
   - Personally, I don't see the clientele that want to build a house in Aspen wanting to have employee housing on their property. Some may, but likely not the majority. Incentives probably don't matter, when there are other areas can be developed.

B. Follow up: What incentives do you think would help?
   - Examine the ability to construct employee housing down valley where costs are lower.
   - Raise the fee-in-lieu, but caution from “punishing” those who develop here.

C. Follow up: Is there a way to make people want to develop affordable housing?
   - The City should hire a representative or developer who is just looking out for the interest of the city changes. Not sure it is appropriate.

D. Do you feel the Affordable Housing Credits system has positively impacted affordable housing development? Why or why not?
   - Yes, absolutely it's positive. It has produced affordable housing in a beneficial way. Projects are generally good ones designed to a high standard.
   - Not everyone will work with the program. Working with credits requires a level of understanding with the program that not all clients have.
   - Don't agree that people are using them as a commodity. It's not like the County Transfer Development Rights program.
   - Can the City sell credits from the Lumberyard? There is not a negative right now – the City needs to pump credits into the economy now. It's not really creating competition.
E. Follow up: Is there a legislative policy that should stop holding of credits?

- Does not know that people are sitting on them and holding them. That may be own perception with speculative commodity. People are definitely sitting on transfer of development rights, affordable housing credits shouldn’t be sold like those are.
- Seems like full time employees are now a barrier because there is a lack of them.
- Credit system and the number required makes it so that no one can develop affordable housing.
- Does not see it benefiting because there are no credits available.
- Going all the way to city council is not the highest and best use for approval.

F. Follow up: Is there an opportunity for the city to develop a project themselves and sell credits or create them and adding financial value?

- This would prolong the process of developing affordable housing.
- It is working to add another layer instead of identifying the issue.

G. Follow up: How would you/clients feel if affordable housing in all zones were incentivized and increased?

- Success in how it is mixed into neighborhoods, so the city is not creating one neighborhood with one type of housing.
- City should reach out to lots with affordable housing opportunities and develop a public/private type partnership.
- Could this be housed under Asset Management?
- Everything is well intentioned, but the load of work is creating more policy and time which drives cost and development.
- Ran into an issue on a project where they needed a credit, but that was not made clear in the preliminary review process. Learned about it when they came to pay fees, but there were no credits in the market. Have become stuck behind that process.
- Something needs to be done better so it doesn’t happen in the future. The process doesn’t allow for what happens when there are no full time employees – need a clearer relief valve.

H. What changes to the credit market could positively incentivize the development of affordable housing?

- There is an element of mitigation that is not current with the type of housing, how it’s being built, what its being built for, etc.
- An important consideration is how to avoid hurting the developers that aren’t looking to just make top dollar but are trying to develop high quality projects.
- Full time employee credits program was potentially successful, and not sure about the economics.

I. What challenges does developing housing within Aspen present (i.e., labor, materials, etc.)?

- Super high cost of developing. These costs are rapidly escalating. Overcoming these costs is an ongoing challenge.
- The City also plays a role in these increasing costs through new codes that are developed.
- Difficulties with labor markets related to subcontractors and trades.
- The housing must be reliable and produce good quality.
- Project contractors do not want to get involved in bonded work.
- Contracts cannot always negotiate the most favorable terms related to material cost increases.

J. What are your thoughts on public-private partnerships?

- Public projects that are done via the public-private partnership offloads the work to private developers (public realm projects done by private).
- They are very similar, but more structured in their finances.
- Heavy lifting which leads to legal and administrative costs that go into agreements.
- We see that out-of-town contractors do not understand the difficulties here in Aspen as compared to other mountain towns.

K. There is the possibility that the City can develop affordable housing projects internally and source credits and guarantee the value of credits. What is your take on the possibility?

- We often hear folks say that the market should provide a certain amount of 100% affordable housing in all zones so that I don’t have to buy a property with the risk of not being able to rezone.
- Every single zone district in Aspen should allow a certain amount of 100% affordable housing by right.
- When a private developer buys a property, they can’t buy it if it is affordable housing. It should be allowed in every zone district so that I don’t have to buy a property with the risk of not being able to rezone.
- Citywide districts – duplex neighborhood. Tends to be more periphery. Prefer an overlay be blanketed rather than picking one neighborhood.
- Residential multi family and mixed use.
- Changing zoning by zone district that still encourages and allows affordable housing by right in City.
- May also need to look at downtown district.

L. Are there particular neighborhoods or zone districts that you think should allow more density to enable affordable housing development?

- We often hear folks say that the market should provide a certain amount of 100% affordable housing in all zones so that I don’t have to buy a property with the risk of not being able to rezone.
- Current mitigation is inadequate. Cash-in-lieu does not cover costs.
Incentives for allowed height and floor area ration would be good incentives.

Would like to be more robust during review process. Would like to see better review process before they even submit. They approve process at conceptual nature. Require more in entitlement process and review process for expedited affordable housing projects.

Not a lot and they are in line with everyone else in the review process.

They want breaks from fees when it comes from all permits so this has been a discussion that hasn’t really taken off so this may be a good time to look at this.

There is a lot of grey area between public private partnership (fees, no fees, rushed, etc).

### III. EXISTING DEVELOPMENT (BUILDING)

#### A. Do you have any suggestions about how to simplify and improve the effectiveness of the measurement of demolition? Is there a building code metric that could be considered?

• Do we want to capture more development as requiring mitigation?
• Do the calculation each time. Understand it is a cumulative measurement, but not sure it is being tracked.
• It is very difficult to complete. The measurements have changed overtime – it is very intricate. No one besides the architect and city reviewer understand.
• Really hard to document – that is true for other things as well, but especially for demolition.
• Potential to use the ICR.
• Usually in favor of zoning definition aligning with IRC. Even the gross FAR calculation is not the same as the IRC.
• This is a good parameter to work with – 40% is less stuff leaving.
• Can be difficult from a cost perspective – changing 2 windows required to create thresholds at a certain amount of work, demo calculations need to be submitted.
• At this point demolition is understood well enough to work with it.
• In demolition projects, there is a lot of reuse that occurs. One company takes regular construction debris and grind it down. That can reduce the volume to 50% of its original size. That equates to fewer trucks on the road and less volume in the landfill. They try to recycle as much as they can (metals, copper, etc). They then pulverize the concrete and take it to Denver or Grand Junction.
• Don’t stop demolition but do it better.
• If the city stays with any part of what the code section says, then it’s tough to say. The trickiest thing is measuring roof demolition related to the context of removing structure below that holds the roof up. It is complicated. It would be helpful regardless of what is used to determine demo, to make clearer. It’s too open to interpretation from project to project.
• Talks of net zero – if existing structures are renovated and not demolished, there need to be provisions to allow for more insulation and changes to the envelope – roofing is not as easy as adding layers to the roof. This will impact the ability to support snow loads, which can lead to need to demolish the roof.
• If all departments calculated demo the same, it would be a huge step for community and staff. Engineering department thresholds leave grey area. This moratorium should allow us to trigger stormwater, etc compliance. Engineering currently is calculated as 50% interior remodel – all the drywall can be gutted, but they don’t trigger the engineering review.
• Depending on what permit is leading, it would be good to trigger water line reviews because many of

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N. How can the city better incentivize the creation of affordable housing?

• Way for the City to seed the free market affordable housing credits. Seed marketing.
• Entitlements – have affordable housing zoning supersede underlying zoning.
• Nothing wrong with credits programs. Folks would be crazy to pursue it. Need to make it attractive option by reducing hearing processes.
• Banks don’t recognize credits as having any value. City could back credit to allow them to have guarantee sale price. Some type of assurance of having value to credits. If they can improve when they release credits at different times rather just at Certificate of occupancy. City has resources available to back and guarantee credit program. Able to reduce cost of entry and address uncertainty in financial component.

O. How many new affordable housing projects do you see each year? Is your department able to provide expedited review to those projects? If expedited review was required, what would not get done or take longer in order to prioritize affordable housing development? How can the building department alter processes to lower the cost to develop affordable housing?

• Spending the time sometimes helps – depends on the architect’s understanding of multi-family construction requirements.
• Continuity of the approved plans in the field – there are always changes in the field.
• Affordable projects step in front of the others. Not mentioning any turnaround times for free-market right now.
• Having a local architect helped with the process.
• Issues are typically response to comments from applicant.
• Getting reviews done is easy – the issue is having things that can be approvable.
• Not many affordable housing projects, so not a lot of impact. With the public private partnership project, there was a 3 month period that people had to wait.
• Fee schedule do not charge for 100% affordable housing projects. (Includes Zoning as well).
• Code requirements could be different.
• Be more aggressive on energy code / green code. Could be made easier on affordable housing projects.

• Too many exemptions – created so many ways that people can get off the hook and under mitigate and not just a gut instinct to back in up.
• Existing tools for mitigation plus carrots – finding every possible way to give people incentives.
• Established low threshold for mitigation for lodges as if they don’t have employees.
• Things are built into the system that they are not capturing as much as they should.
• Seeing significantly larger homes being built.
• Mitigation doesn’t capture operations and construction of it. Mitigation addresses additional employees that are generated by activity. Nothing in code that addresses current deficit of affordable housing. Doesn’t capture construction, employees, old houses didn’t capture mitigation. Looking at from full life cycling of building is what.
• Affordable housing certificate program is broken down. City makes new entitlement process overall difficult.
We have listened to the community and are hearing 80% of people in the community are positive on certification.

When city council says that they want a net-zero certification, departments and partners are signing up to participate in this certification. It is accepted that they are signing up for the same requirements and goals.

C. How many single family and duplex residences do you estimate are extensively remodeled or redeveloped each year? How about multi-family units?

• Taking anything down to the studs is considered extensive.

D. City Council has raised concerns about the negative impacts of the mass and scale of new construction on community/neighborhood character, and the climate and waste impacts of developing large homes. Do you agree that mass and scale of homes contributes to these problems? If you do agree, what would be the most effective solutions to implement in response?

• Yes, agree with this, mass and scale is an issue. It can be most seen in the changes to the West End and Shadow Mountain areas. In the past, we avoided a general downzoning of floor area in favor of design standards. Now, I’m thinking that the RDS program needs to be augmented by downzoning. Reducing the historic preservation bonus based on lot size has helped.

• We have worked to make the houses a little more street friendly but haven’t controlled mass and scale.

E. Follow up: Demolition vs Deconstruction?

• The problem is there is not a market for a lot of the materials.

F. Follow up: Impacts of deconstruction vs demolition?

• Houses today are being made much more efficient; all equipment is being made with energy efficient device.
want to see employee housing.
• Pitkin County drop and swaps are worthwhile.

IV. GMQS AND DEVELOPMENT
A. What challenges does developing housing within Aspen present (i.e., labor, materials, etc.)
• Costs for labor and materials are, of course, increasing and labor is currently in short supply. Biggest issue is finding land for affordable housing development, which drove the Lumberyard purchase. Problem is that the site is outside of the Roundabout and the perception is that it’s too big a project.
• There needs to be an incentive for someone to develop it. It has been credits – there are not enough on the market now, which is a problem. In order for it to be feasible, it needs to cover the costs for development, plus a decent return. The credit program created that, so we need to maintain that.
• With any development, there are a lot of questions and variables. It’s not a straightforward path to move through approvals and permitting even on the simplest side. With go to a board, call-up, etc. The process is unclear. Creates challenges where there is no guaranteed path and return.
• Affordable housing project on hold because of the moratorium because it was mitigation for a free market project.
• Cost of land, construction materials, and labor.
• Limited developable land.
• Business community needs to house their employees better not all on COA/Pitkin County
• The city should be asking people to build housing.
• Past policy decisions have make developing on-site apartments more difficult.
• Makes for vibrant neighborhoods.
• May offset short term rental homes.

B. Follow up: How would you/clients feel about making ADU’s mandatory?
• County already requires it so making it a similar regulation would work.
• Knee jerk that constantly happens focuses on 10% that will break the rules rather than the 90% that will follow them.
• If the city is trying to build housing, let’s build housing and make the process less cumbersome.
• Within the current programs there are not a lot of tools in the toolbox.
• “Tried and true tool” are the credits, but this is not of interest to a broad spectrum of developers.
• The value of credits are not based on any specific metric, making it difficult for people outside Aspen or outside the development community to understand.
• Tax credits are good but not an easy process in Aspen.
• Affordable housing zone district is not viable given land costs. Properties that are viable from a zoning or basic unit perspective have a significant barrier to entry because of the land cost.
• Overall cost and location are challenges.
• There are not a lot of places that people want to see employee housing. People do not seem to want affordable housing near them. Have seen that people would rather pay a higher cost to incentivize housing in other areas of the city. People want some privacy when they are here, and don’t necessarily want to see employee housing.
• The cost will be substantial to get employee housing that is desirable. It seems that what is being developed is not meeting the specific needs from a unit size or location perspective.

C. How can the city better incentivize the creation of affordable housing?
• Public private partnerships should be explored in ways beyond just the affordable housing credit program.
• Ensure that the city really needs, or can afford to generate the number of affordable housing units that the regional housing study indicated need to be generated in the upper valley, it may be better to rely on employee growth management.
• Any other residential project can be done by right. Creating a more administrative process would be helpful.
• Pitkin County has a good loan program, is that something the city or employers may be able to replicate? Use of city collected funds designated for affordable housing. Instead of the City being in the development business, put the dollars to work with a program like the County uses for its employees for all APCHA qualified parties, so they can buy existing housing and convert it into affordable housing.
• If they don’t want to mandate it, make it more attractive than cash-in-lieu.
• Increase cash-in-lieu so much that it makes more sense to develop.

D. Follow up: Would density allowances be helpful for affordable housing?
• Yes, definitely – we can’t build affordable housing because of parking requirements so loosening zoning requirements to allow for housing would be very helpful.
• Unintended consequences – if there can be an easy conversation with engineering to understand how to master plan every block.
• How to deal with transformers, etc. to master plan utilities for next 30-50 years; what will we look like and where will infrastructure go? Where are utilities needed?
• Not about money anymore, all about time.
• Incentivize what the city wants.

E. Follow up: What timing are you seeing on projects?
• We’ve gotten interior permits for the city that do not call for engineering reviews within 6 weeks.
• Thresholds/levels that can easily go through reviews should be explored.
• City has money and the county has land. Is there a way for the two to collaborate to build housing?

F. What types of development costs are you seeing in the market today?
• Used to quote a high-level finish for $500/sf. This has doubled to about $1,000/sf
• Aspen is squeezing out the middle. The affluent developer and home buyer can navigate the cost increased but the city is unable to accommodate the middle class very well.
• Cost of construction have doubled – could be COVID Things are just going up. That’s not really city driven.
• Start off telling them there are permit fees of 15% of construction cost, not including fees. Often times
the City is making substantial revenues off projects.

• Costs are extremely high – parks fees, water tap fees, parks, street fees, etc.
• Some fees are waived for affordable housing, but they are still a barrier to entry.
• Cost of permitting itself is high.
• Comparison of somewhat relatable communities (Park City, Telluride, Jackson hole).
• Fees in Aspen for standard size house were categorized as outside.
• For multi-family housing: $900,000 – $1,000,000 per unit.
• Anywhere from $1,000 to $10,000 per sf and they will continue to increase - It was $6,000 10 years ago, but now it is $10,000 of based on material and labor.
• Materials and lead time are extremely difficult here. Scheduling issues have caused delays.
• Construction is significantly more costly across the board.
• 5 years ago, it would be between $700 - $900 a foot. At this point was $1300 minimum (a year ago) and that's likely gone up.
• Cost for 500 sq ft to a home in cemetery lane. Mechanical proposals north of $50K, and before were about $16K.

G. Follow up: Can permit fees act as a barrier to regular development?

• Yes, you're competing for same resources as billionaires and now Aspen is competing with mid-valley projects too. Aspen is based farther away so if they can get similar prices, they will take that rather than spending time in the car to get to Aspen.

H. Follow up: What is the average rule of thumb per market?

• Ever since the big winter storm in Texas, material costs spun out of control.
• Rule of thumb no longer is reliable.
• 100% increases on steel and no stabilization in lumber market.

I. Do you view residential development / redevelopment on existing lots as growth? Or is this aspect of Aspen's development context – something else? Do you agree that this type of development has impacts that should be appropriately mitigated?

• It is growth in the sense that it may not mean there are more housing units, but it tends to introduce many more workers into the community. As houses expand they require a larger workforce. And there are construction impacts, including increased noise, traffic and landfill use.
• Aspen always looked at growth in terms of units, but the growth may need to have another metric.
• For impacts to be mitigated, landfill impacts need to be addressed. Some projects try, but it needs to be addressed more closely. Increased construction traffic has been very difficult to mitigate, cannot easily be redirected to public transportation.
• Don't see it as growth. There is not a lot left that is vacant land that can be developed. Even pushing into the county. A number of properties are not maintained – they are being sold for the and value. It's rejuvenation, not growth.
• If it’s being redeveloped, there’s a desire to get the entire family there – wants to be able to have kids and grandkids able to stay. That is driving the bedroom count. Goal 95% of the time.

• It does have impacts – if you are doubling the size, pay the fees to do that. Free market development needs to pay to play. Will not go the other direction.
• Single family to duplex is growth or if the lots are not specifically used and they change the use, that is growth - Most growth that I have seen is City of Aspen driven – Burlingame and Castle Creek.
• Most growth has been related to affordable housing projects.
• Sees it as evolution; Growth is scary – growth automatically triggers people to think “bigger and bigger”.
• This is definitely growth, but existing structures are being redeveloped. There is growth in the structures getting bigger. There are really few undeveloped properties that have not been developed on. There are probably less than 50 vacant lots in the city.
• Not growth. It is customizing a building to suit the new owners or replacing construction that was not done with great quality and care when it was built. With the cost of properties, clients do not necessarily want to keep them.
• Some clients are moving to preserve homes and could be done more with more incentives. If the city wants to maintain the homes in their current form, then incentives would be more helpful than prohibiting things.
• A component of an addition that is included in these types of projects, so potentially some incentives

V. ENVIRONMENT:

A. What environmental impacts, if any, do you see with the type and scale of residential development that has occurred in the last five years in Aspen? How does this compare with older development?

• Habitat is widely used for existing furnishings.
• Had some clients do deconstruction but can’t recall the last time that occurred. County now has their waste program, but it is not really an issue for clients – it becomes a contractor issue to manage things.
• Landfill is not well equipped to handle recycling of things. Maybe not as effective.
• Not sure that environmental requirements would be a disincentive. Deconstruction takes a lot longer than just demolishing, so will add time to the construction activity in the area. Will take more trips into town so will increase traffic. Materials need a place to go and need people capable of doing that work – it is a specialty contractor need. Not sure the market can fill that niche.
• From environmental health perspective, the impact on the waste stream has been extraordinary. The landfill is bigger and more frequent. We are seeing a tear down from the existing house and waste from consistent remodels.
• A home that used to be occupied 2-3 weeks of the year is now occupied 20 weeks and this has significant air and traffic impacts.
• Energy use and transportation impacts from higher occupancy and people required to service the home.
• Larger homes that are more efficient but larger and have way more items in them then they used to . The residential energy use is the largest piece of greenhouse gas inventory.
• Residential development is 95% of the waste coming in.
• Construction demo is up 17% tonnage from last year (record year) and up 3% from 2019.
• People need to be building with the future in mind when the building comes down to be more recyclable.
APPENDIX A: ROUND #1 STAKEHOLDER INTERVIEWS SUMMARY

VI. UTILITIES

A. Are there any current or anticipated limitations to the city’s ability to provide utility services to customers?

- Electric and water are both finite resources, our use should always be taken into account with any sort of development. To be specific, local water is very finite as we are in a desert-alpine environment. There are also constraints of western water law. We just completed an integrated resource analysis which looks at resources over next 50 years and aligns it with the UGB. With current resources, reuse, etc. we can meet the demands over the next 50 years – this has a lot of caveats such as community development. On electric side, we are grid connected. We are 100% renewable supplied utility which creates interesting challenges for what we bring onto our grid. What lines can carry these resources? What can be created locally? Resource scarcity is going to become an issue and we are a very small fish in a very big pond. There may be some point where the cost of renewable electricity exceeds what an average market consumer can bear. In terms of infrastructure, we believe it is the right size and scope to handle the change to EV and we are incrementally making changes to harden the grid. We are well positioned to adapt to changes in the market place.

- UGB match – say 70% of use on an annual basis is outdoor, 30% is indoor. This indoor is not a floor area ratio.

- Is a opportunity for the codes to work together to get to where need. Some of the current land use code regulations regs make the items people want to do on energy more difficult.

- Finding a place where this stuff goes to not end up in ours or else where’s landfill.

B. How has residential electrical consumption in the last 10 years? What development activities lead to increased usage? Scrape and replace? Occupancy type? House size? Construction type/design? Others?

- Eastwood subdivision – series of lots platted in Pitkin County then annexed to city. No way to tell them no as long as they meet current code. In situations like that, the city should purchase properties and taking them off the books. Hillside is going to be forever scarred. Exempt from 80-40 greenline.

- These are just not homes, they are built for some other purpose. Amenities or features departure from what is a home.

- Notice the amount of traffic that results from redevelopment or maintenance. Normal homes are gutted and replaced with excess and size and energy consumption. Number of people required to maintain that type of property goes up exponentially. Construction jumps exponentially.

B. How has residential electrical consumption in the last 10 years? What development activities lead to increased usage? Scrape and replace? Occupancy type? House size? Construction type/design? Others?

- It’s been very constant with maybe a slight increase through electric vehicles or electric heating, but were on that breaking point where we will see an increase in a significant way.

C. Are there any future infrastructure projects planned that will increase the capacity of Aspen city utilities?

- Establishing a maximum tap size for a particular land size/use and allowing them to back into what their reference is the ability to use greenspace for stormwater treatment.

- Community tradeoffs are negative, though overall the remarkable impact on landfill space and time makes a tradeoff worthy. We need to build up a full circle economy on things like waste streams. We can recycle steel, but many of the other things being constructed do not have a viable end user.

- Finding a place where this stuff goes to not end up in ours or else where’s landfill.

D. Are there significant stormwater impacts with differing residential types?

- Multi-tiered issue; cost of encroachment licenses.

E. Follow up: Are there engineering remedies to help with runoff?

- Best management practices (BMP) – rain gardens, green roofs, etc. Built infrastructure to try and mimic the natural infrastructure that the ecology relies on.

- Every parcel has to detain and infiltrate run off. Residential has more flexibility to work with. The big difference is the ability to use greenspace for stormwater treatment.

F. How many additional taps do you see each year? Is there a limit on the number of taps that can be provided?

- Eastwood subdivision – series of lots platted in Pitkin County then annexed to city. No way to tell them no as long as they meet current code. In situations like that, the city should purchase properties and taking them off the books. Hillside is going to be forever scarred. Exempt from 80-40 greenline.

- There is no requirement or incentive for these connections.

- Recycling component is great for things that can be easily processed in a local market.

- There’s no space on site for a project to try and collect different materials.

- This has been a long-term narrative. Is this a true barrier?

- Folks know how to deconstruct and know that there is money in it, but there is not enough space for workers such as parking.

- Multi-tiered issue; cost of encroachment licenses.
G. How has residential water consumption in the last 10 years? What development activities lead to increased usage? Scrape and replace? Occupancy type? House size? Construction type/design? Others?

- Water use has gone up, but varies year to year. Trend wise, we are using more water as a community, but it takes one summer to get back to what we used to have.
- New models must follow a water budget. It is a use of high and moderate use plants offset by low and very low. We have seen very good compliance with this ordinance. Generally, aspens aesthetic is important to our dynamic, so we don’t push hard on the xeriscaping.

H. Is fee based on consumption?

- As you use more water, you bump up into a higher class. General users will be within the 1st and 2nd tier and large users will bump up to the 3rd and 4th to offset environmental impacts. On the electric side, this has unintended consequences. We have created a tier structure particularly for affordable housing to make sure that we are not unnecessarily penalizing someone. For taps, we are asking customers to incrementally pay their share.

I. Follow up: Would you raise the fee?

- We take into account a peak demand charge on our large commercial customers. We want to expand this to residential and small commercial at some point to capture the revenue stream but ultimately have a stream on the back end as well. These rates are trending up. Storage, development of wells will help the demand. A storage surcharge to fund, finance, and build the infrastructure.

J. Are there any neighborhoods that typically use more water or electricity?

- Luxury residential use a large portion of the systems capacity. Even when they are off, the elements can use much of the energy.
- Red Mountain uses more because of areas with larger lot sizes and per capita it is Cemetery Lane. During COVID we saw residential use come up as people were home more.

K. Would centralized growth assist with utilities and energy use?

- There are pros and cons of this.
- Water side ½ of customers is outside city limits.
- On electric side this concept is relatively sound.
- Our transformer footprint and associated square footage will need to be taken into account. Instead of 1-2 for each block, each building may need one.
- Setbacks are already helping be proactive about this.
- We can also help be proactive by informing property owners of size at the beginning of the process so that it is not a surprise later on.

VII. WASTE

A. Are there cases where someone would be turned away from the landfill?

- No, we have flow control on the books. The county can enforce it if they choose to, but they don’t enforce it because it is not an issue at the moment.

- Landfill is in charge of budget and must make revenue so let people use the landfill despite room running out.
- Conserve landfill space through programs such as recycling at a lower rate.

B. Implications of recycling programs – flaws, thoughts, possible improvements?

- If you’re in unincorporated Pitkin County and require a waste permit for demolition, you must divert 25% of waste or you lose a deposit ($1000/ton).
- $10,000 or $35,000 deposit that will be returned if recycling requirements are met.
- 15 so far have fully completed program, but 100 or more that are actively going through the program.
- 7% recycling rate.
- Evergreen Zero Waste is one example of a company that is trying to get creative with the waste issue.

C. Is there a potential for staff to go out to development sites and advise? How do you see Aspen leveraging what they already do to increase effectiveness?

- Workers would love the ability to be more hands on, but do not have the capacity.
- Staffing focus on this subject would be helpful.
- Building inspectors – proper utilization of the recycling program is not a priority.
- There is staff to do it, but not enough resources put to the efforts.

D. How do you think that the city can better incentivize recycling for projects where money is no object?

- Fee structure tries to incentivize more diversion.
- If you bring a load in, we have a $100 load fee. The increase in the load fee per ton does not make a difference until it was bumped from $100 to $1000.
- Contractors are also tired of loading waste and make it a part of their program.
- Convenient to have people use one container and separate it out.
- Residual of larger projects are grinded and thus take a lot less space in the landfill.

E. What is the capital funding and restructuring requirements needed to implement sorting? Is there a large barrier?

- Money and equipment purchases.
- A million and a half on equipment purchases.
- On a $60 differential fee we brought in 1.2 million dollars.
- In 2023, we hope to have basic equipment and have more automated in 2024.

F. Is there a market in purchasing recyclable materials?

- We see a lot of concrete which we process and sell.
- Rock and dirt come in and we crush topsoil into gravel. Land clearing goes into compost. Cardboard gets shipped to Denver.
- We get more recycled products that we try to sell back, something that can be helpful is an incentive program.
APPENDIX A ROUND #1 STAKEHOLDER INTERVIEWS SUMMARY

VIII. GENERAL QUESTIONS OR COMMENTS

A. Is there anything else you would like to share?

• Is there a conversation of sorting of demolition with the environmental health program?
• Presents a large community impact during construction such as parking, encroachment, etc.
• Important conversation between building, water and utilities. Taps are getting more and more restrictive. We are tying up a lot of demand for these fire systems. So much so that some cases where new commercial is potentially larger than main size on the street.
• Bringing constraints to the forefront of growth conversations is very important.
• We have always seen significant impacts, but never like we have in the last few years.
• GMQS is not being used to throttle development enough.
• City should consider using their tools more effectively.
• Growth in mass and scale in our neighborhoods is going to happen but should be more evenly and spread out.

• Affordable housing is allowed to operate without people looking over our shoulder.
• I wish there was a way to manage the money and time spent on growth management quota system and what has it yielded.
• Conversation should be about what it has done for the community and benefits, what does the city get out of it?
• Construction and demolition diversion ordinance will be very successful.
• Program for unincorporated accounts for only 10% of projects in the area. Regional collaboration and same rules across the board would be a huge impact.
• Related to moratorium, we won’t see the landfill impacts until the future when the projects will be bringing waste in.
• The numbers on how many transactions happen each day on is a specific scale.
• Truck traffic, construction activity, etc numbers. Jan-Feb is supposed to be “slow”, but we are not seeing this.
• Need to be more aware of we are influencing everything people are complaining about. The city is part of the problem. Listening to public commentary not everyone things big houses are a problem or affordable housing is needed.
• The moratorium can bring insight on what the opportunities are.
• Aspen had a history of vacation rentals by owner which allowed the average homeowner an opportunity to further supplement their income. We need to find a way to allow that to continue, while addressing the rise of LLC ownership homes. Allow this for people who live in their homes otherwise, while regulating the STR market. That has had a major impact on the west end.
• I am concerned about the mass and scale, as well as the design quality, of the proposed Lumberyard project. Several points on this: Parking 400 cars for 300 units (in rough numbers) is absurd for an affordable housing project. Parking and unit count should be at parity for an affordable housing project to not become a traffic generator. Plus the visual impacts of parking are very negative.
• Use of the open area fronting Deer Hill is an affront to everything we have tried to do in protecting open space at the Entrance to Aspen. Use that area for open recreation, not vertical construction.
• Possible consider firing CTA and Schultz and putting in place a local team that really understands Aspen and will balance housing needs with a sensitivity to our other community concerns.
• Some of this is a knee jerk reaction. Most properties are owned by LLCs and trusts. These are people who have it needed for tax structure, not for companies. People need it for privacy or a tax structure. There is a misconception that all LLCs are trying to short term rent.
• There should be more foresight and planning rather than reactionary moves. Reactionary drives the cost up and does not benefit the community.
• We need to get specific and data driven.
• We create the moratorium, but how many buildings/lots can even be developed?
• City has to figure out where to spend time and resources.
• There is a misconception in earthmoving. Irresponsible earth moving is going to landfill. They have not taken earth to landfill in five years, but others are. There should be more regulations that stop people from moving earth to landfill.
The Project Team held six (6) focus groups between the dates of March 7–March 10, 2022. The meetings were held both in person, at Pearl Hall Pass Room at City Hall and virtually, to offer multiple opportunities for community members to participate. In total, 29 members of the public participated in these focus groups which included City of Aspen Aspen Board members (Planning Commission, Historic Preservation, etc), technical stakeholders and members of the public. Common themes developed across each of these focus group meetings.

This document contains the combined comments from those meetings. Comments below are organized by major topic areas for discussion, the questions asked, and participant responses. Responses were noted by project team staff and edited for legibility, tone and tenor.

I. GENERAL TRENDS

- What is the goal of Council and how do they want us to help get there?
- Buy-down may be a good idea for finding affordable housing opportunities.
- The City is running out of vacant land.
- There are now highly sophisticated buyers.
- We need to assess the existing housing stock of affordable housing and requirements for who lives there.
- We need to update our Aspen Area Community Plan (last updated 2012).

A. What issues related to residential construction do you think are important for the city to address?

- How they are going to build affordable housing?
- Point values assessed to affordable housing concerns. Point value given to the continuation or time for buy-down conversation. Buy-down had a high score, but those are difficult. Default rate of a buy down is high because the affordable housing person cannot afford the HOA fees / assessments. 80% of the condo homeowners have written language to prohibit buy-downs. Time should not be spent on that issue (Council Housing Strategic Plan).
- Buy-down may be a term used for a broader idea of finding affordable housing opportunities in town.

B. When thinking about development in Aspen and our neighborhoods, what has been the biggest change you’ve seen in the last 2 years? (COVID impacts) 5 years? What challenges, if any, have you seen?

- Moving to remodels and additions. Running out of vacant land – demolitions and reconstructions are driving things. Getting closer to all the community being occupied.
- Everyone is trying to fix an old remodel and turn it into a newer remodel. People are coming in for the advantages that are available to them through the HPC Guidelines. Advantages are being given to historic properties are opposite of what the community is trying to do in other places. HPC Guidelines provides for a path to a larger home (500 sq ft FAR bonus, setback variances, etc). People buying historic homes understand the rules and have their eyes wide open (savvy buyers), and they really do not need the benefits – they are not going above and beyond their responsibility to the community. Offering a lot for historic properties.

- Land use codes are complicated. If you can hire those to navigate the code, you can get most out of code. Budgets are a concern, but not a barrier. Do feel like there are better projects coming through Historic Preservation Commission that are not asking for the benefits. People are coming to the board for incentives that an applicant / designer received previously so there is an expectation that the benefits would be granted. Hear about projects that impact the parks.
- Visually, seems like there are a lot of scarpae and replace happening. Land use codes are very complicated.
- No significant changes in what is coming to Planning and Zoning. People are selling the idea that this is their forever home, which may not be the case. Issues with local owners – looking to make changes, or made changes that were not recorded.
- Sellers’ market so sales are happening in 15-30 vs 45-60.
- Cash transactions happening over facetime.
- Credits are dwindling.
- People want personalized properties. People want to know what can we do and how long will it take.
- Telling people they are a year out for getting an interior remodel.
- As COVID decreases, people are going back to metropolitan areas.
- People are asking for the same things they always have.
- Size of homes are being driven by wanting to have them, not by feasibility of them.
- Highly sophisticated buyers. Understand highly complicated things and know how to assemble a team to get the job done. Sometimes they want something simple that is not simple.
- There is a dislike of the city and the bureaucracy.
- Pace and Scale is increasing.
- Most of the people building here have more development opportunities.
- It seems like the pace has always been this way. Had an office in town, but construction on all sides, so moved.
- Not seen a change in clients. Being careful about the clients take on. If working together, the project has to be an active agreement. Evolution and innovation – it is a tool that could be powerful. Net zero house submitted in County, and that could be a model. Lean in on innovation. Look at pre-fab construction as a way to decrease traffic and landfill impacts. Aspen is no longer on the forefront of this – we have gotten complacent. Difficulty of housing a team and doing more with less. Engineering requirements continue to get more intense – have a master plan around that. Transformers are an issue – have to plan around and they seem to be going everywhere. HP work – gone through voluntary process and got a shortened permit time. Time is the biggest commodity. What are things that can be done on a graduated schedule? It would help the city’s load. Be thoughtful in the design – want to change the dialogue about maximizing.
- The entitlement and improvement process is more onerous and takes longer than it ever has. The requirements of someone constructing a structure are extremely rigorous and getting even more rigorous as houses get more complex; both land use and permitting process.
- It is worth acknowledging that we are in a global up period in the cycle of construction development; we have lived through very little development in Aspen. We don’t have control nor should we have control over this. It is not a forever thing and there will be less busy periods.
- We’ve recently gone through a permitting process and it is extraordinary in the amount of time it takes and total costs. Aspen is leading edge on standards in terms of climate. That doesn’t feel like the core of the issues. We have to overlay the shear amount of volume that the city is dealing with. We should develop a policy off of the last 2 years of experience because real estate is very cyclical and we cannot...
people who still live here and don’t require these services. You do not want to penalize those people. Not sure there is a way to do both though.

- Redevelopment – if you go from a 1,000 sq ft to something bigger, is that growth? There is something in there do de
- If you max your lot area – is that considered growth? Yes. Something in there that could help define
difficult for normal residents to navigate code because the city is trying to protect themselves from 10,000 sf.
- Same as the affordable housing deferral, is there an opportunity to have different criteria or other permitting requirements for locals. Another function of demand is price – when you sell home the new buyer will have more people working in the property. There seems to be a correlation between the price a home sells for and the amount of people needed to service it.
- Creating separate tracks for people creates complicated. Can you take total square footage of house as a way to separate? Cost of project? Something that can separate out locals.
- Growth is so many things. It’s the natural progression of places that are beautiful and desirable to live. It is evolution. Everything is so interconnected – as soon as we have more requirements the costs go up. How many undeveloped lots are left? (not many). Everything is redeveloping as infill.
- In the 70’s it looked like growth because there were empty parcels. It doesn’t feel like growth now – there is inventory that is dated and old. If we prioritize upgrading infrastructure, then we should be in support of the old structures being updated from an energy perspective. Knee jerk reaction of change – can make people worried. Intrinsic value of property exists. Should not stop or prevent.

II. PACE AND SCALE

- Though some redevelopment provides new employees (maintenance, housekeepers, chefs, etc) there are still locals who do not require them. Those local residents should not be penalized.
- Is there an opportunity to have different criteria or requirements for locals?
- Need to have development that is feasible for the middle class.
- More requirements increase land costs.
- Lack of available lots so we must focus on infill.
- Focus on the long-term issues and goals, not just today’s.
- Majority of development is single-family, not multi-family.
- It is a seller’s market.
- People can use money to propel themselves out of certain situations.
- Redevelopment is growth in terms of number of people working it and emissions, but not if it is existing and not significantly expanding.
- Though the homes are huge, scale is appropriate for what Aspen is. People are building within the requirements of the zoning code.

A. Do you consider the redevelopment / expansion of existing single family and duplex homes as growth and as development that needs to be mitigated in some way?

- Difficult to make a distinction. The complexity of these buildings means that there is some level of growth. It takes a complex team of people to work on the buildings and service them. There is a complicated code that can get local residents stuck. Creating separate tracks could be more complicated and could be taken advantage of. Instead, maybe look at the total square footage of the house, or the cost of construction. Something that can be more easily applied.
- Agree. Designing homes that are empty for a while and then it is rebuilt. When the new owners come, there are new employees that are coming.
- Housekeepers, maintenance, chefs, etc. all come in to maintain a house.
- Majority of homes have the ideas of bringing in workers, but not all of them. There are many local people who still live here and don’t require these services. You do not want to penalize those people. Not sure there is a way to do both though.
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- Most of the development is in residential areas. The growth in the last moratorium was downtown, and that was cramped down in that process. That has pushed pressure out into single family neighborhoods. Commercial redevelopment has higher mitigation requirements than residential. Community tried to fix a perceived problem of infill, and that has pushed development out. There is not a lot of multifamily happening. Each fix creates another set of problems.
- Need to define growth. Replacing a single family home is redevelopment, it is not growth. Unless single family homes are being converted to multi-family that is growth. It is replacement.
- Question has been answered by city council. Yes and no. Largely change that is associated with redevelopment.
- Mass and scale: Technology has changed. People want less log and stone and more modern. Mass and scale is largely the same.
- Setbacks, FAR, etc. have not changed. Energy codes have changed.
- Building department has been paced for year. What else can you pace?
- This pace is happening around the world. This is more of an evolution, and we need to understand how to guide that without making it so stringent that the costs are driven up. Want to keep a balanced community with different economic groups, so be careful on the code remedies. City should be building the projects instead of focusing so much on exploring and considering the options. The city needs to understand macroeconomics to see the broader forces in the world. The process is opening the door to buyers like Picasso because they can stomach it. Costs have just exponentially gone up.
- The sales prices can absorb it. The regulatory environment pushes the costs up. It’s a developer or a second or third homeowner. Not sure that is new. Observing building in Aspen, there are not a lot of locals. Are we trying to stop a tidal wave that started in 1995? How different is this development from previous times and the future land use map. Aspen has incredible pressures on it and the pandemic pushed it even more. How do you survive the kind of build out. All the properties that are being updated. We lost the middle class 20 years ago.
- The Growth Management System (GMQS) is based on units. But we haven’t been adding new units. What is happening is seeing residential redevelopment and expansion. For some segment of
the population there is no tipping point for the exactions, but the middle class is being priced out. Makes timeshare units more appealing to a developer – they can handle this. A pacing system for building permits is a possibility. If there is a way to restrict ownership to real people versus corporate ownership.

• If you have an existing development and redevelop it, no.
• No, there is math that we can use (net floor area ratio change). By definition, the only growth is the single family increase that occurs.
• Seems like obvious growth to me in terms of materials brought up, people coming in, all of the resources. You are adding space/capacity then you are growing. That speaks to the taxes that you are adding by updating.
• Mitigation is appropriate, but it needs to be backed by data and if we are going to talk about attendance change overnight than we should talk about implementation of that. Mitigation is appropriate, we all understand that across the board, 2022 vs 1970 house has a different employee load. Mitigate appropriately with data that supports it.
• No multifamily development occurring – no place to put it.
• Prioritize redeveloping older homes over newer homes. • Think there is still demand because there are a lot of backlog. There are 3-4 years’ worth of backlog right now.
• The basis of the problem is not right. Our average house size is similar to other places in the US.
• Pushing square footage underground is now seen as an issue. 3500 sq ft is not massive. Time of construction tends to be the result of the process here. Person building the home wants it done quickly.
• People have been maximizing their square footage for 30 years.

B. Is pace and scale a problem? Is it just something that is part of Aspen that has always been here, or is it different?

• Scale and pace is directly impacts by COVID-19. It was not headed in that direction before COVID-19. Uptick in last 2-3 years, but do not see it being sustainable. The pace cannot be maintained for 10 years – only can remodel a house so many times in 3 years. Get large things on lots because they can. It was snowballed. People are investing and parking their money here. That has always been the case, but the ability to buy and sell real estate will continue. People are still coming up with more. Not sure if need to focus on new development or remodel more. Feel like the lots are vastly lost. People want the most value out of their lot – that will not change. The only change to mitigation rates can recall was a reduction in them (2015 code amendments). Think the majority of the construction occurring is pre-pandemic. The next 5 years is going to be impact of COVID because of how long it takes to go through the process. Easy to respond to what is happening in town, but what is the right amount? Understand the pace and scale, but people will always build as much as they can. What are we trying to do? What are we trying to solve for and what is the right way to solve it? We will end up with huge homes on small lots because they want they highest utility for land purchase. We should continue to focus on infill rather than expending – updating technology and insulation etc is natural evolution of a desired space like Aspen.
• Multifamily development occurring – no place to put it.
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• People have been maximizing their square footage for 30 years.

C. Are there things that can be done to get at mass and scale without touching floor area?

• Think that council will want a solution that limits the size of home (remove exemptions, or reduce allowable size), or make measurement changes (height, FAR exemptions, etc).
• Where is the city heading with building IQ? Would the city consider a residential component?

D. How do you view the overall pace, scale, and impacts of development in Aspen? How has this affected you personally? How has it impacted our community-at-large?

• Have not really heard an articulate argument for mass and scale.
• Could be perception that construction is ongoing. Because it is happening in free market area people are wondering where is the employee housing.
• Impressed with the management of construction sites in Aspen. If maxing out there is no where to put anything. If anywhere near it, you will feel it. The traffic from construction seems like a lot – notably a lot. If pacing the growth, the cost will go up. Is there an alternative? It makes the people coming in more wealthy and corporate, but helping the people here now. 50 -200 years in the future? Study the impacts of development in the future – look internationally. Pace development with there is an instateable desire for development. Who else has done that? By keeping it livable we. All these impacts impact the people who are living down valley. The locals in Aspen are impacting the plumbers and framing groups from down valley. Clients are here because Aspen is here.

• Modeling is possible. With the pressure we have it redevelopment and it can only go so high. It will be similar to what it is today. What is the percentage of traffic with other communities? Manhattan is an example – what we are faced with other communities deal with; what is the tax revenue from con.

E. What is your opinion of the current pace of development in Aspen?

• This is cyclical. We cant overreact to what has been happening when we don’t know what the long term is. Our funding for affordable housing depends on development so development is not a bad thing. The offset fees and real estate taxes benefit us. It seems intense now in terms of traffic and construction, but we also recall periods where very little was going on and markets were depressed.
• Too much overall. To the point above, there is too much of everything right now. I am much more hesitant to predict the future with what this trend has brought in the terms of current scale. I am not an architect nor a builder – just a resident living and working here. It feels like an overwhelming tsunami is hitting us. I know unregulated growth is not possible but it feels possible here.
• You will feel impacts of what you are surrounded by. There is short term pain associated with construction for all of us. There are always impacts of construction. We are at a high point of the cycle.

• Comfortable with what is going on but also believe that it is cyclical. This is dependent on where you are. It is hard to see so much going on with all of the trucks coming in, but then you have people who have been working on plans for years and want to start building and can’t. I want to do small work on my condo and the prices have just shot up. For people who own properties and want to remodel, and then are told they can’t it doesn’t seem fair. People should have the right to develop their own properties within what the code allows.

• Cyclical market, pace won’t be sustained in 2-3 years from now.

F. Thinking about scale...

• Scale is appropriate for the city of Aspen. Maybe not when compared to other places such as Steamboat Springs, but for Aspen only it seems highly appropriate.

• Homes in shadow mountain – I agree in general, but there are some homes that are monstrous and feel completely out of scale. Houses are built there and right next to each other. It depends – there are things currently being built that I am puzzled by.

• Properties in Aspen are in scale. The properties discussed above are in Pitkin county. To understand this question, you need to know Aspen limits and code which is highly restrictive.

• Zoning codes are very restrictive. Going through the west end, I haven’t seen any that are over size for the lots or neighborhood. The codes we have now that restrict size are working.

• My understanding is that basements have been restricted. You are restricted by total height and FAR. The restrictions meaningfully limit the size of basements. No meaningful difference in construction time between a thousand-foot difference in basement size. I don’t understand what difference it would make whether the basement is built a little bit bigger than not. If anything, there would be more fees to the city because affordable housing fee is based on square footage. I would agree with this. I think also the new requirements for civil engineers have become stricter which is for the benefit of everyone. I don’t see how a larger basement would have any detrimental effect.

• The houses that are being built are social engineering those neighborhoods. They are not being built for a local family to live in year-round, they are being built to rent out or gather and then be empty. Our code is appropriate, and we are complying, but we are changing the dynamic of our neighborhoods based on what is allowed. The houses are more or less the same size.

• What would strike me is if there were huge homes next to very small homes; No sense that things are going away.

• Bonuses in development – 2 leading causes are for greater scale.

• Grew up in Aspen, now live in Carbondale. I took a walk on the Rio Grande bike path. The size of the homes stunned me. Homes looked like they should be homes, offices, museums, or schools.

III. AFFORDABLE HOUSING

• If the goal is to create units, what tools do that? Not fee-in-lieu.

• A consideration of a deferral agreement should be that it is limited by who monitors it.

• There are no affordable housing credits left.

• Affordable housing credits are not profitable.

• Housing comes before the impact. Bifurcate the permitting process.

• Fee-in-lieu should be used by a certain time or returned.

• ADUs are a worthy consideration in solving for affordable housing.

• Though there is a fear of second owners creating conflict and loss of control or people not using them correctly.

• Affordable housing should be allowed, by right in every zone district with density and compatibility considerations.

• Incentivize development further down valley.

• Monetary fees do not mean much to people here.

• Existing bottle neck of building department is a barrier to affordable housing development.

• Incentivize people giving mitigation through letting them speed through the process, grow larger, skip permits, etc.

A. In general, do you believe housing mitigation should be provided through a cash-in-lieu payment, on-site housing, housing credits, built units, or that no mitigation should be required?

• Deferral agreement – only concern is it’s only as good as the people who watch over that. Is it even valuable to consider that option? Support affordable housing certificate program. It’s only as good as the people managing it. Every time it comes to a slow down, the ability to get a return on the investment it gets behind the curve. The studies are obsolete by the time it makes it into the code. There are no affordable housing credit applications because people cannot be profitable. Certificates might be but it’s not being kept up with. Affordable housing is the best because the housing comes before the impact. Dollars for sale of property to a single-family home versus multi-family affordable housing complex needs to be commensurate. Concern about cash-in-lieu because the money needs to be used by a certain time. There should be a “nuisance” number built into the fee in lieu number because the city has to build the housing. If fee in lieu number was recalculated after each city/affordable housing project (including 100% of staff, land, construction, design etc), then it might be more appropriate.

• Fee in lieu payment should be quantitative against person paying cash-in-lieu. If you don’t use money in five years they have to give it back to you. When city takes cash-in-lieu they are putting city to work. Why isn’t there a nuisance number brought in to take into account that the city is providing a service.

• Credits are the best way to encourage affordable housing development, but there are no credits available. Fee-in-lieu payment should have specific criteria.

• Agree with the issues related to fee-in-lieu. The lag is a particular issue (collecting fees for projects that are constructed further down the road). One good thing about fee in lieus is that as a community we get to decide how and where those units are built. Have more agency.

• No new applications for affordable projects because of price of land and cost of creation. Until a person who is building project can buy land competitively and until sales from affordable housing can make a profit nothing will get development.

• Credits are not profitable for anyone that wants to do it.

• Is the goal to deliver units? Then fee in lieu doesn’t do that. If I am redeveloping my house for the same square footage, then I shouldn’t have to pay mitigation. APCHA units should be paying real estate transfer tax (RETT) and housing mitigation like free-market does.

• How will mitigation changes impact long time locals?

• If you require mitigation payments for developments for the whole – you will price out local individuals and lead to more billionaires who live here a week of the year to become our residents of the city –
fighting. The only way to manage affordable housing is to sprinkle it in. It's great to have the larger complexes, but they are out of town and have transportation impacts. Sprinkling into neighborhoods is what Aspen is about. The gondola is the great equalizer – people like how grounded the community it. People want local friends. Locals are what makes Aspen great and it's what people want.

- Incentivizing affordable housing is where everywhere should be on the table. Give more floor area, quicker time, etc.

### D. Map – where do you think affordable housing is appropriate? (Area for “not appropriate anywhere” on the side of the map)

- Pick R6 as one district where affordable housing should not be allowed by right. Make it by right by code in other zone district and make density tolerable.
- Affordable housing should be allowed in any zone district, but no multi-family projects, quad or triplex in single family.
- Keep housing out of commercial core – have more commercial development because that generates additional tax revenue. Let the downtown serve the purpose it needs to serve.
- Overlay is great, but there has to be incentives.
- Don’t see Affordable housing by code in R-6. If have to pick a zone not allowed by right, would be R-6. That is where historic buildings and SF homes are. We have limited it to SF homes there. But then make it by right in other areas and increase density. Requiring on-site affordable housing in commercial core only makes buildings larger and commercial provides a lot more taxes each year. Looking at commercial core and people put a unit there, that might be their choice, but having it by requirement is an issue for commercial space.
- It will eventually circle back to parking and density.
- Allow affordable housing in any zone district (ADUs in R-6, maybe a quad).
- You can develop everywhere, you shouldn’t need an overlay.
- Make sure that our solutions don’t hurt developers that pursue a
- Right type of affordable housing can be appropriate anywhere. People have to take the idea of Burlingame out of their minds. We should make the most of our existing projects without making it too dense and uncomfortable.
- The city can’t solve all of this. I don’t think we create positive incentives for developers and homeowners to contribute to the housing stock. It is “a lot of stick and not a lot of carrot”. We should leverage people’s selfish motivations to get housing built. I would be fine with larger basements but you get the opportunity to build that if you contribute in some meaningful (bigger than normal) way to affordable housing whether it is a financial contribution or a new mechanism. Give people a fast track through the process if they’re willing to contribute more. I don’t think we tap into that.
- From the residential side, I would think about things that people really care about. Why not give
- I think you will get insane pushback on increasing density. I don’t think that’s the best route to get housing added. Buy-downs and incentives is likely a much better trade. I do think anywhere in the community is appropriate, but ADUs must be livable and you have to allow people to be human.
- I think the idea of incentives of expedited permit or increase in single family is a great idea, but I
am very concerned that ADU's turn into guest bedrooms. The long term local that has been here and raised a family here and expand a house to meet the needs of the kids. They should be given different opportunities than the person who came to exploit the financial opportunities here. Long term families that have been here, work in the community, and are fortunate to have a home should not be penalized because they have been fortunate enough to grow up here.

E. Should more affordable housing be provided in Aspen’s neighborhoods?

- Yes, throughout the city, county, and valley.
- Yes throughout the city. This question begins to get complex with tradeoffs introduced. Our baseline understanding of our affordable housing program is limited. It feels like we need to understand the existing stock and who is in it. We also have to answer “for whom?”. This should be properly answered for the updated answer in time for where we live. Of course we want more, but this is a very complex problem. It feels like starting with the stock we have and understanding what is going on and how to use it better. I read stuff from the city and I get the impression that we don’t know what is going on with the stock and how to improve it and our value of what the community gets out of it. Yes of course we need more affordable housing and solutions are very complex.
- I don’t think there is ever a possibility for us to add too much, so we should build as much as we can.
- I know this issue is super complex and years ago when it began it was not taken into consideration that people would move in and stay and raise families. We now need to address this and think of options for those who come in for the season.
- I live in employee housing, I would never be here if it weren’t for affordable housing so I am supportive of more. I do see the inquiry in the questions that we are asking of development and building and then discussing building more affordable housing. I am feeling that there is too much development, but saying that there should be more for affordable housing. This next question of where and how to build it is very important.
- Main street is a good example. Main street was always a corridor, but it has changed from what it traditionally was. What is the number that council is looking for? How are we going to get to a certain number of affordable housing units if we don’t have a quantitative goal?

IV. DEVELOPMENT PROCESS

- Need to rely on code and staff for the process, not the public.
- Need a streamlining process to forgo affordable housing from public criticism.
- The code needs incentives for affordable housing development.
- Height, scale, permitting, and fee reduction need to be considered.
- Consider the importance (or lack thereof) of parking. Projects should not rely on parking.
- Demolition has become complicated and conflicts with the goal of deconstruction.
- People will pay more for less time and an increase in certainty.
- GMQS review creates limitations on the affordable housing projects.
- People will make tradeoffs if they can get time in turn.
- The process is overly long and complex.

A. From ACV: How important is it that the city create a more streamlined approach, reducing barriers, and providing more clarity in the review process for affordable housing projects? Do you support creating new opportunities for affordable housing to be built in existing residential neighborhoods?

- Need to rely on the code and staff experts for density – the old parking issue needs to be ignored. Car is going away, but we are mitigating for them based on an old approach. Applications for 100% affordable housing and have no variances should not be subject to scrutiny by neighbors. Need an overall streamlining of process to forego public criticism where it doesn’t belong.
- When we are talking about projects that conform to land use code that is valued by community then we need to prioritize those.
- Need to set precedent that affordable housing is going to happen.
- Trying to be proactive about building housing and buying credits and then thinking about the next wave to mitigate. Building 60 some apartments to balance out future. City couldn’t process them separately.
- Needs some overall portfolio to work within. Easier for someone like Mark to do it, versus the one off affordable housing developer. Can the city guarantee the credits.
- Let the city be a clearing house for the housing credits? Then the overlay makes more sense. But need more incentives.
- If affordable housing could be administrative, that would cut years out.
- A affordable housing should be by right. Everyone should be able to build a unit, and sometime more than one.

B. Knowing the impacts development has on the landfill, should deconstruction or other requirements be implemented?

- Pitkin County process works well and encourages energy efficiency. Historic preservation guidelines are in conflict with the city’s energy and sustainability goals.
- Incentivize the process. Can it be linked to other bigger items?
- When create, be enforceable and getting the benefit out of them. Where does the community place its values? Would value more sustainability over maintaining a historic roof.
- Maybe focus on the remodeling of existing homes rather than full redevelopment.
- If there is waste diversion, what do you do with it?
- Need to be honest about the fact that the landfill is done, so what is the long term plan? Things will calm down when there is a recession.
- Could a muncher be used at the landfill?
- Goes back into the incentive conversation. If there is a scoring system for the pace, then include it in the system. Having a scoring system that provides points for deconstruction.
- Deconstruction is not particularly labor intensive so just talking about dollars. Should be done and advocate for it. Certain buildings are easier to deconstruct. The buildings from the 60s – 70s have little value in deconstruction. What talking about is more effective recycling, not requiring the materials in other construction. Costs are piling on though. Some of the remodels are on houses that are less than 10 years old, so that is concerning. Some of the stuff from 10 years old are less usable than 50 years ago. Conversation is not about requiring – the harder question is how do we make the things that we are making no more construction friendly.
- The 60/40 threshold has been a powerful tool with clients. The best tool is to keep structures, and it allows you to keep 60% of the structures. What are stats around it? Going back to use tax or loads, what is the difference between deconstruction versus demo. (Rooftop is a huge percentage – minute start.
altering the roof you get to 40% really quickly. 40% is a meaningful threshold and is fine. Can get into trouble with the building science perspective and more sheathing needs to be updated. Never been in a situation when got to 45% that go straight to a scrape. There is an incentive to do a remodel. Is there a faster process or different fees? The percentage has been helpful in conversations with clients.)

• Can share information – information in real estate community in transactions, etc. but construction is a black box. It shouldn’t be that way. Need to understand where things are.

V. ENERGY

• Encourage energy efficiency.
• Reassess guidelines (HPC) to ensure that they are not in conflict with goals.
• Include scoring system that provides points for deconstruction.

VI. OTHER COMMENTS

• It’s been 10 years since the last AACP update. Is there a conversation about updating the plan? Perception of mass and scale being contrary to the AACP is a concern because it might be out of date.
• Pacing of construction – will that result in a conversation about vesting?
• If you go after floor area and size then you’re going to get people going after you with their attorneys. You can restrict height, etc. But if you go after FAR and how it relates to gross floor area you are going to get pushback.
• Mitigation fee increasing is not going to a major dent.
• Net zero is a bit of push but they have individuals that will get as close as possible.
• Amount of electrical needs is large as move to more electric systems. There is a limited amount of area – look at R-15 and R-6 how would it be done if pushed the sustainability. What is happening with the loads that are going onto the infrastructure is problematic. Recent conversation with a realtor – concern about needing to update. There is a disparity between the real estate community and what is needed to do something. Did not understand the consultants and time needed to get in for permitting. Go through different project types, what are loopholes, etc. Takes a minimum $500K to get through DD. People have been wanting to do more illegal things because it’s so long and expensive. Even small changes int eh process are impactful – how name sheets, etc. Is there a minimum information that is needed?
• Wish people knew the costs of developing. It costs $1M - $1.5M to get into the process. There should be a loophole for the really small projects. The people who want to remodel their kitchen, add a porch, etc. Should be easier for those smaller projects. There are a lot of code violations (particularly in the County). The way the code changes and the ball moves – it is hard to keep up with them. If city of aspen and pitkin county could get on the same page it would help with predictability. Sustainability regulations in Basalt, Carbondale, Aspen, and PitCo are all wildly different.
• What are the three big priorities of council and measurable tactics to reach that?
• Landfill seems like a sacrificial animal. Regardless of the pace, the government is responsible to solve this. It seems like no matter what we do, the landfill has a very short lifespan left. It seems like we are using this as a pawn. It is distracting and irrelevant because construction is not solely to blame for this. I am upset with the fact that it is so prominent in this information. We shouldn’t be distracting this conversation.
• I agree and it is not just residential and doesn’t solve the problem to just tag it to that and not commercial.
• On the issue of climate, it is a bit disingenuous for the connection of climate goals to moratorium to residential construction. The existing housing and building stock is a much bigger issue than the new stock which generates emissions as you are building. These new ones are very efficient so we need to reassess the stock. I’d like us to be leading edge in incentivizing the installment of energy efficient technologies. I love climate policy but we should connect it to the real problem and create incentives on that side. We need to upgrade windows and put solar on homes.
• A lot of the emotion tied to development is for commercial, but being taken out on residential.
• We should bring over technology and code from the Netherlands. It is the existing buildings that need to be updated.
• One of my major concerns as a resident of Aspen is that I am unsure about APCHAs residency standards and enforcement of residency requirements. What are our housing needs and the cost of housing? Are the units that we currently have occupied by those that need them? We need to effectively utilize the existing inventory and ensure that they are properly occupied.
I. NEW WAYS TO PROVIDE AFFORDABLE HOUSING OPPORTUNITIES

- Current system is mostly stick, little carrot. Focus on positive incentives for developers and owners to build and rent to local workers. What is the goal of Council and how do they want us to help get there?
- Give up a little open space at entrance to town. Run HWY 82 through Marolt. Build in current HWY 82 corridor, with pedestrian thruway replacing current HWY 82.
- Be creative and utilize Aspen's extensive land use holdings - The City is the largest landholder and has many underutilized parcels that could creatively accommodate housing. The City and community need to compromise where to accommodate what it seems is our greatest need. If there’s a historic designation creating limitations, get rid of it. If there's a zoning issue, fix it. And the City should submit an RFP for a private developer to handle the development and construction work on properties it owns. Additionally, partner with other communities in the valley and create pooled resources to develop housing, even if it's outside of Aspen or the urban growth boundary. Who cares where the housing is exactly positioned so long as it reasonably serves our community? Woody Creek, Basalt, El Jebel, unincorporated Pitkin County - these are areas that can and should absorb some of the affordable housing burdens.
- Transit hubs - affordable housing - The intercept lot needs to be developed into a mixed-use complex that has affordable housing. This would help encourage riding on RFTA as a transit hub. While you are at it, the City needs to provide a carbon refund, a la the food tax refund, for all downvalley employees who utilize RFTA to commute into Aspen at least 50% of the year.
- We need a measurable goal before we explore ways to create more affordable housing. Who are we currently housing? Who is being left out? How much more do we NEED? Homeowners gone short term after renting to long term people for years. 2nd homes allowed units that are not used for long term. Fix it.
- Aspen and the RF Valley will never be a community of mid or high rises. It is therefore incumbent on the City to acquire and/or reclaim available land for development in an environmentally sensitive and transit-oriented manner that are challenging endeavors in themselves. To tackle the Valley’s Affordable Housing crises, taking a cue from how large cities are addressing such shortages would be valuable. If not already being required by Aspen, residential and mixed-use developments should be required to provide a portion of the units as affordable housing either on site or paying a fee to a specifically earmarked fund for the construction of off-site affordable housing. Perhaps code or zoning incentives could be considered for developers to provide more affordable units. After all, developers are in the business of maximizing the return on investment and if it can be shown that it’s advantageous to build or contribute money for more affordable housing, maybe it moves the affordable housing needle a little bit more.

APPENDIX C: ROUND #1 ASPEN COMMUNITY VOICE + ENGAGEMENT EVENTS

The project team hosted a project webpage on Aspen Community Voice and posed five questions to gauge participants’ thresholds for policy changes and to garner ideas for new ways to provide affordable housing opportunities, re-think existing development review procedures in the Aspen Land Use Code, climate action leadership, development mitigation rates, and construction impacts. These questions were also asked at Pop-Up events in March.

This document contains the combined comments from both online participants and in-person events. Comments below are organized by major topic areas for discussion, questions asked, and participant responses. Responses were noted by project team staff and edited for legibility, tone and tenor.
APPENDIX C: ROUND #1 ASPEN COMMUNITY VOICE + ENGAGEMENT EVENTS

been approved. Tabulate the number of employees generated, then calculate the number of units/bedrooms required to house them. Compare to that of the number of employee units actually created (by both private developers and local government). Until those numbers “match” nothing else gets built.

- Spend some of the City’s war chest to hire powerhouse sustainable development attorneys to claw back Gorsuch/SkiCo. Sweetheart approvals that reduced mandated affordable housing units will just put more underpaid employees for the proposed high-end hotel (into the general APCHA pool). More workers needed – maybe there is room along HWY 82.

- House qualified residents in existing housing. APCHA enforcement efforts, while improved in recent years, remain weak. Covid adaptations allowing remote access to many positions undoubtedly increased access to employment that does not meet the APCHA standard for valley employment. I suspect 10 – 20%, possibly more, of affordable housing occupants do not meet basic APCHA standards. 300 to 600 units can be created at little or no cost if APCHA/City/County were to better enforce APCHA residency &amp; employment standards. I also believe APCHA employment/residency standards should be strengthened. A requirement for only 1,500 hours of annual employment is way, way lower than necessary for those living in free market housing. APCHA affidavits should be subject to robust and random audit. At a public subsidy of over $300,000 per FTE, enforcement is by far the cheapest way to create work force housing – and does not create growth.

- The City of Aspen has failed to build reasonable density on very limited and expensive workforce housing sites. Every urban affordable housing project should be at least 3 stories. We have an abundance of open space. Creating small pockets of open space areas as part of AF projects is a waste of resources.

- Affordable housing is critical to keep the work force in place. Aspen needs options in size and location. Additional units should offer more size options (3/4 bedrooms). Middle missing housing should also be considered. People need more options.

- Cash-in-lieu should track with the overall free market sales prices/construction costs.

- Cash-in-lieu numbers should reflect current land and construction costs.

- Make affordable housing units high quality in town. People may downsize.

- Buy the land, have the mitigation credits work toward an actual project in progress.

- More affordable housing needed! Missing middle housing needed!

- Very important to build in existing neighborhoods - we are out of land.

- RETT is key and a good mechanism.

- Some people are violating APCHA salary and work requirements.

- Affordable housing can go on Red Mountain, up Castle Creek, and ABC

- Appropriate where density is permitted by underlying zoning. Affordable housing should be dense, cant do it in single family measures. Want to be in single family area – HR is more strict than the underlying zone (R-15 A). There may be opportunities to rezone. USFS– huge lost opportunity. City should’ve bought the lot. Appropriate for a rezoning. One site in core that should be a priority for relatively high density development. City has missed out on reasonably maximizing attainable affordable housing sites. Affordable housing needs to be efficient given cost of land – needs to be dense. 300 units at lumberyard is not enough. Reduce open space. Sales – RETT payment is mitigation – massive amounts of mitigation. Inappropriate to say it is not mitigation.

- Fee in lieu and FTE calculations should not changed to the extent that's being proposed. Increasing fees is reasonable but not the proposed extent.

- What do you do for families who own properties for 2 to 3 generations and are finally getting ready to sell? They are not flippers or developers. Could there be a separate category with certain benefits.

- Floor area ratio should not be increased. I do not want to jam packed residences in to City lots even if it’s for employee housing. Employee housing must comply with the zone district.

- There is a built in prejudice against affordable housing. We need to work to bring down these barriers. I live in affordable housing and it is a great neighborhood.

- Let’s incentivize residences to downsize or move but don’t force them!

- It’s important to have a demographically diverse community here.

- Utilize city land holdings and partner with neighboring counties.

- Build outside urban growth boundary, buy down deed restrictions from multi family owners, and right sizing are all potential opportunities. Public private partnerships with competent multi family developers the city is not a capable responsible developer.

II. RETHINKING EXISTING DEVELOPMENT PROCEDURES IN THE ASPEN LAND USE CODE

- This is not just an affordable housing issue. The permit process for all construction raises the barriers and cost, driving prices higher.

- Misguided approach. I don’t believe that any amount of land use code language revision will result in a meaningful amount of affordable housing to be built by private homeowners in residential neighborhoods. It is unlikely that there will be sufficient rewards to the private sector to develop affordable housing versus free market, and the free market use cannot bear the entire brunt of supporting our community’s affordable housing needs. The City needs to focus on creative solutions (ie repurposing land the City owns, fixing broken policies within the APCHA system, and handing off the expensive, time consuming, and risky development and construction processes to more efficient private developers.

- Development of new Affordable Housing is growth. From the Strategic Plan, “Alter zoning standards to permit more density, intensity, and available land for affordable housing development within the City Limits.”

- The City should get out of the development game and incentivize private developers that know what they are doing.

III. CLIMATE ACTION AND MITIGATION LEADERSHIP

- The existing base of homes is bigger climate issue than new. New build standards are leading edge. Focus policies to incent fleet update.

- Short-term vs long-term. Good demolition practices of outdated, energy inefficient structures is a short-term issue compared to the long-term benefit of significantly more energy efficient structures. The new structures often have on-site renewable energy source and pay significant REMP fees which goes towards community energy efficiency projects. It seems we’d make a larger climate impact by upgrading Aspen’s aging structures and infrastructure than worrying about the construction debris, which can be mitigated using good demolition practices (reuse and recycling of materials, grinding, etc) - most of which are already in place.

- Develop markets for recycling and reuse. COA should work with Pitkin County, NWCOG, State of CO, and the Federal Government to develop markets for deconstruction products. This should not just apply to construction demolition. Every item that is sold and bought should be the responsibility of the manufacturer to take back at the end of its useful life. Every product, every manufacturer, or it’s not
available to be sold or bought.

- Significantly limit new building permits.
- Aspen is already at the forefront of climate action – some of the most restrictive environmental codes anywhere.
- Aspen should be at the forefront of climate action because we’ve got a lot of money and we can afford to do it. By doing so we will set an example for what is possible.
- We need to set the pace CORE is taking a leadership Roll with city county and roaring Fork Valley.
- Deconstruction should take place at the landfill.
- City has worried about filing up for decades. Think capacity can be increased/accommodated. For reducing waste, but no credibility. Disappointed in COAS waste/recycling program. Rio Grande used to be a good facility and it is now limited use. No cardboard in pandemic is problem – use of cardboard dramatically increased. City advocates for composting – good idea but a bad execution. No place for low cost composting. Compost service would be 50% increase in waste hauling so no one does it. At wr's office there is a compost area but it is never full. Should be one at the recycling center and more economical solution. Waste ordinance – no enforcement on the requirements. Don’t do the reporting. Companies required to notify customers of recycling information yearly, but it never comes. Got running in 15 years... Waste companies don’t have price for 32 gallons. The idea of being waste conscious is good. Deconstruction scale: Not reasonable resolution, so not a 10 – try to be effective on deconstructive (5).

IV. DEVELOPMENT MITIGATION RATES

- Infill development does not equal growth. We need to stop conflating infill development (replacement of existing built environment) with growth. Replacing a 5,000 square foot structure with another 5,000 square foot structure is NOT growth. It is a basic property right to be able to improve one’s property and we need to focus on mitigating true development impacts, with data to back it up. GMOS is designed for adding new housing and commercial development where there previously hasn’t been such. It is not the City’s place to meter the pace of ordinary non-growth producing infill development.
- This question feels slanted towards housing and not the other impacts. In many ways we are fortunate to have redevolopment activity. It drives our economy, provides employment, and accounts for a significant portion of our tax revenue. How can we support this part of our economy while managing its impacts is a more constructive approach. Redevelopment is not the sole reason that we have a housing crisis.
- Re-development is not new development.
- Less is more and more is less. For every increment of new development there is a negative increment of quality of life – just say no.
- Exempt residents with a caveat – updated APCHA standards. 1500 hours is a low standard. Works full time job to live here. Fundamental error in definition of full time. Not as simple as question. Build new house next year. 2015 was based on a 30 year working life. So full time employees (FTE) are mitigated to the community. It is like a housing credit. Looking forward, lived in 1968 house for 26 years. Two parents and kids live there. If I have the ability to redevelop, I have provided mitigation again. New buyer shouldn’t have to pay because I have already paid/provided Picasso Group – should have more mitigation requirements. Different homes/users have different impacts. Should try to differentiate between the groups.

V. CONSTRUCTION IMPACTS

- I moved here to spend time in these mountains, and raise my kids in a small quiet city. I’m a pro-progress person. But what has been happening the past 24 months has made me question the city’s thinking about the people who actually live here full-time and contribute to the fabric of the community. And I am not the only resident of Aspen to share these thoughts. I live on Castle Creek Drive and we have ~37,000 sq feet of new construction on-going within 500 feet of our residence. The quality of life impact has shifted from living in one of the quietest places in Aspen to one that is a hugely negative experience from noise, to dust, to managing unnecessarily sub-contractors parking in our yard, to a massive increase in construction traffic on Cemetery Lane. We need to move away from Aspen being driven as an asset economy and return to the virtues of the founders. I’m sure it’s why we all live here as well. I’m thankful you are tackling this issue head on.
- Spread out construction phasing so trucks aren’t contesting the roundabout.
- Don’t rent parking spaces when two or more permits on one block.
- Every owner has the right to develop.
- Construction is cyclical. There is a lot occurring now, but there won’t always be. The city already exacts tremendous fees to mitigate development impacts. Mitigate for real, measurable impacts and not emotion.

VI. SIZE OF HOMES IN ASPEN

- Subsurface development is out of control and should be scaled back. Construction impacts – not be able to build lot line to lot line. 20 ft is still too much. No basketball courts. Concerned about changing definition of sq feet for purposes of mitigation. Ordinance on mitigation was statistically invalid. Can’t use one definition and multiply by another. City exacerbated impacts of all development in Aspen by having unnecessarily high standards and inefficient/inadequate permit processing.

VII. SHOULD ADDITIONAL SPACE BE MADE FOR DECONSTRUCTION?

- Deconstruction for a period of time only.
- Allow but don’t require.
- All buildings have a lifecycle.

VIII. OTHER

- Thank you for opening the discussion of building development and short-term rentals in Aspen. This is definitely something our community needs to address. I am a 5th generation Aspenite and can trace my history here back to the 1800’s, not something very many people can say. I have lived in Aspen my entire life, raised a family here, and have a daughter striving to do the same. With that in mind, I have heard no discussions on long-term locals who have lived in their family homes for generations. Aspen is a very special place with a rich history that I fear will be lost if we continue the way we are progressing. I live in a duplex on Cemetery Lane with my brother living next door. My parents built this house and wewere both raised here and I have raised my family here. We are fortunate to have our granddaughter living nearby. She loves to spend time with us. My parents could have sold our house, collected theirfortune and moved down valley. But, they chose to give their children a chance to live in Aspen. All of us, my husband, brother, sister-in-law and myself have worked in Aspen our...
entire lives. Additionally, our daughter is a teacher in the Aspen School District and has been teaching and commuting upvalley for the last 10 years. We would like to redevelop our 1956 house to allow our daughter and her young family to live there and continue the history in a community that we love. However, the City of Aspen and the building department make it very difficult and costly to go through the building process. There is no incentive to pass along our property to the next generation. Much consideration is given to employees in employee housing, but none is given to the locals who have remained in their homes. The only solution is to sell out for our millions and move away, now you have lost locals and employees and a deep rich history that cannot be recovered. Upon upgrading the house, the taxes will be tens of thousands of dollars, whereas subsidized housing residents pay hundreds of dollars in taxes. One way to help defray the high cost of taxes would be short-term rental of the home. We might be a small segment of the community, but I believe it is important to look at our situation as deeply as you look at employee subsidized housing.

- Concern of transportation impacts. Have Aspen be Aspen. House over 6,000 sf should have quadruple taxes. No one size fits all approach for location of affordable housing. Development industry feeds our community/families. Do development responsibly. Was there really an emergency? It’s hard to get a permit here. Shouldn’t be a 9-10 month process. Most communities have very different prices. Permits there are walk in permits, but in Aspen it’s a long and hard process. Start work more quickly. Permit fees are too much – drives locals out and pushes them into Basalt (best for locals). Turn over in Com Dev impacts timelines. Is the city having an overly tough process? Need to listen to the people in the field to understand the real process. Let the process flow rather than stop and go. Create 100 yr plan with manageable pieces. Process is restrictive on what can be done. Hard to get an approval.
The Project Team held three (3) focus groups between April 13th and April 15th. The meetings were held in person, at Aspen City Hall in the Pearl Pass Room, and at the Aspen Police Department in the Community Room. Both technical stakeholders and members of the public attended – totaling 21 individuals representing a variety of professional organizations and civic groups in Aspen.

City staff presented data and background information on the potential code amendments and walked attendees through each of the proposed policy changes pertaining to:

### I. DEMOLITION ALLOTMENTS

#### A. Proposed Allotments

1. Implement a growth management allotment system for demolition projects. The allotments would be part of the 19 allotments currently available for free-market units.

2. Use performance criteria to evaluate applications for demolition allotments.

3. Creation of a framework of performance standards and expectations for demolition projects that can be adjusted over time to respond to new trends and community desires related to projects that have significant construction and other impacts.

#### B. Calculations

1. Bring clarity to the definition and calculation of Demolition.

2. Incorporate exemptions or adjusted applicability statements for certain projects to be exempt from the provisions of demolition (ex; unsafe structures, water damage, acts of god, etc.)

#### C. Tracking

1. Implement a tracking system for cumulative demolition that “resets” after five (5) to ten (10) years of a Certificate of Occupancy (CO).

### II. AFFORDABLE HOUSING AMENDMENTS

#### A. Location

1. Allow multi-family affordable housing to be developed in all residential zone districts. Density allowances would be increased, but existing floor area and other dimensional limitations would remain in place.

2. Create an administrative review path for affordable housing projects.

3. Eliminate non-conformity limitations for non-conforming lots of record for projects that are 100% affordable housing.

### III. DIMENSIONAL CODE AMENDMENTS

#### A. Setbacks

1. Allow increased encroachments into setbacks for certain energy improvements, fire protection, etc.

2. Allow mechanical equipment height increases that accommodate efficient equipment.

3. Increase allowances for the development of solar panels (height or setbacks) or create an administrative review path.

#### B. Height

1. Allow exterior energy improvements to a building roof to exceed building height.

2. Allow mechanical equipment height increases that accommodate efficient equipment.

3. Increase allowances for the development of solar panels (height or setbacks) or create an administrative review path.

### B. Housing Mitigation

1. Update employee generation rates to reflect impacts of construction and long-term operation of residential units.

2. Update mitigation calculations to be based on “liveable area” rather than “floor area.”

3. Eliminate the credit for existing square footage that did not previously provide affordable housing mitigation.

4. Update the deferral agreement for local residents.

5. Consider and evaluate a depreciation factor for affordable housing mitigation for residents. Mitigation requirements would be deferred for local residents while living in their home, and the required mitigation due would depreciate over time.

### C. Free Market Units in Mixed-Use Zone

6. Allow existing free-market residential units to be updated and redeveloped in the Mixed-Use Zone District (MU), but prohibit the establishment of new free market units or existing uses being converted into free market units.

### I. DEMOLITION AMENDMENTS

#### A. Participant Questions and Comments on Background Information

- What is the threshold of what the Council wants to see?
- On the background data, the 2021 demolitions would be impacting close to 19, but the years prior would not change anything.
- Will prior year’s unused numbers roll forward?
- Why do you think such a large percentage of projects would not fit into the growth management quota system projects?
that raise prices. We are trying to make this an affordable place to live and a place that is easier to afford being part of the goal of the City Council is to reduce activity and reduce the ability to get a demolition permit. The City Council is first and foremost interested in reducing activity by reducing building permits. The permit process is already extremely long and difficult. This has contradictory effects. Part of the reason construction takes 5 years is because it takes months every time there is a change.

As a brief historical note, I was here when growth management quota system was first developed. It was developed to impact growth not construction. They were trying to clamp down growth and this was the genesis of the affordable housing issues. It is in there but don’t think that the growth management quota system was not originated to stop or control construction impacts. It is used as a tool for those things but that wasn’t why it originated.

• The 2021 numbers would’ve used 15 of the 19 allotments. Were the other 4 remaining used through the growth management quota system? I don’t think this change would adjust any impact that the growth management quota system was not originated to stop or control construction impacts? I don’t think this change would adjust any impact that the growth management quota system was not originated to stop or control construction impacts?

• How many dollars have been generated by mitigation vs what the dollar generated by real estate transfer tax?

• Total mitigation is 4.9 million over the last 3 years. It is a drop in the bucket towards purchasing a deed-restricted unit. Over 3 years, this is maybe enough to purchase 3 or 4 units.

• Will the demo permit allotment happen for residential development and will there be a different allotment for commercial?

• If you’re looking at demo to do this, you still have to wait for change orders. The longer this process takes the longer the owner is thinking about it and thinking about their changes.

**APPENDIX E ROUND #2 APRIL FOCUS GROUPS SUMMARY**

**B. Participant Questions and Comments on Proposed Demolition Allotments**

- Will the demo permit allotment happen for residential development and will there be a different allotment for commercial?
- If there are 20, will number 20 be first in line for the next year?
- From my understanding, we’re trying to change the growth management quota system allotment so that there will be more reviews sent to Planning and Zoning board.
- Volunteer boards are the best place for reviews to go because it puts more approval capability on the community members.
- This change makes it more expensive on the front end than the back end and would reduce the turnaround timeline. This would create more certainty going into the board review since design work would be front-loaded.
- Are you proposing keeping the number at 19 and will it be first come first serve?
- Aspen City Council, for the last 8 years, has not turned over any of the allotments. As a result, 19 seems too much, have you considered cutting this down?
- If I was to make an application to make a fourplex, I would need 4 allotments. Do you believe that 4 apartments on one lot is more impactful than one single-family home on a lot? I know how little land there is left for multi-family, but I don’t see this to be true. This is food for thought.
- Allotment adjustments almost incentivize a scenario where one home is preferred and instead hurts those trying to put more “keys” on the lot rather than working with them.
- Is the primary goal to limit the visual and development impacts of the projects? Constraining supply strikes me as a bad idea because it will drive up the price. I am trying to figure out what we are trying to accomplish. There are alternatives to these impacts. The development that has long impacts and properties that sit vacant, sure they can pay. If you can’t buy a house that you can upgrade then you have to worry about this. Council worries about locals and now their house is less valuable. The person who has the fancy house, theirs becomes more valuable. This has weird supply constraints and I don’t think this affects what you guys are really worried about. Construction projects that run 18ish months they benefit the community but those poorly run and poorly managed projects that go for 5 years they should be taxed.
- I’m representing myself (a guy who owns an old house who wants to remodel at some point). In my view, you should be encouraging these old houses that aren’t efficient to be replaced as opposed to encouraging new development in areas. Redevelopment over new development. You don’t want to discourage redevelopment. When you have someone in my position competing with the GMQs, you are restricting supply and the ability of the average guy.
- You get a lot of good things out of redevelopment. Redevelopment vs. new construction helps climate change.
- What are the goals of these policies? I think they sound like we want to do X but not have too much Y. We want to have more X but not too much of Z. It would be helpful to pose it in this way so that we can see the trade-offs. All of this stuff, because we are fighting the free market, would be easier to understand if you lay out what the tradeoff is.
- Constraining impacts will have negative effects. The unintended consequence will be to raise the property value of the people who have built high-quality homes and create lower than market value homes that might be in need of material change. You might create effects in the supply chain overall that raise prices. We are trying to make this an affordable place to live and a place that is easier to build. Constraints can create outcomes that you don’t want. It is a problem that we don’t have a priority list of goals that we’re trying to deal with. It is hard to generate good policy if you don’t prioritize goals. We are asking for everything and this will result in bad results.
- I am pretty sure that part of the goal of the City Council is to reduce activity and reduce the ability to get a demolition permit. The City Council is first and foremost interested in reducing activity by reducing building permits. The permit process is already extremely long and difficult. This has contradictory effects. Part of the reason construction takes 5 years is because it takes months every time there is a change.
- As a brief historical note, I was here when growth management quota system was first developed. It was developed to impact growth not construction. They were trying to clamp down growth and this was the genesis of the affordable housing issues. It is in there but don’t think that the growth management quota system was not originated to stop or control construction impacts. It is used as a tool for those things but that wasn’t why it originated.
- How many dollars have been generated by mitigation vs what the dollar generated by real estate transfer tax?
- Total mitigation is 4.9 million over the last 3 years. It is a drop in the bucket towards purchasing a deed-restricted unit. Over 3 years, this is maybe enough to purchase 3 or 4 units.
- Recommendation to move away from going to Planning and Zoning board review - we don’t want to continue to backlog all of our departments. Simplify the process by starting at staff a recommendation.
- Can you summarize your direction from Council? We need to look at something that simplifies the process and gives you what you want. It seems like the process is becoming more complex to slow development. Why can’t we simplify the process to make it clearer so that it works for all parties?
- Having done growth management quota system (GMQS) at Planning and Zoning and been in conversations around quota sections, I feel like GMQS was changed because it was so limiting. To you, you want the GMQS and when growth impacts and you have 150 square feet per lot, you are putting a cap on what you can do. In my recollection was that we did not want to explore permit allocations due to fairness issues – how does the City propose to prioritize? Is it limiting someone’s ability to be able to do necessary or essential things to their property? I am questioning whether GMQS as a tool and framework is right because of its current issues. There are very few opportunities for growth allocation to happen. I know starting over is never fun, but we need to try to focus the lens of “this” towards the framework of what we want. From my perspective of seeing projects move through the system, I feel like we get bottlenecked because of external factors to the process. There is never going to be a perfect flow-through process, and I know certain areas get hit hard because that area becomes the value proposition, I don’t know how to limit this without a square footage proximity impact.
- That is what the County thought they were doing, and it has backfired. It requires site plan reviews for any adjustments. You must go through every one to review it. It is very tedious and a 6-month review and then you must go back in and resubmit.
- There is some sort of analysis or spreadsheet that shows the permits applied for, change order days, and how long it has taken? That’s why when it comes to pacing people get frustrated. I would like to see if there is some sort of dataset on number of permit days, change order, etc. I am not sure Council is aware that this happens.
- I’ve been done with projects and been requested to submit a change order because the inspector said don’t worry about it and then once it hits final you have to submit. This doesn’t happen in Snowmass.
- If you’re looking at demo to do this, you still have to wait for change orders. The longer this process takes the longer the owner is thinking about it and thinking about their changes.
From time of completion to ownership you have vacant properties, and then this gets extended. These long periods of time become long impacts to the adjacent properties. It is not just the front end. If we can simplify the process, then you can limit traffic and impacts from construction. Instead of 14 months, they’re taking 18 or twice as long, etc. It is something to be considered to streamline the process than getting rid of it completely. Neighbors complain about how long things are taking, but the blame lies with the process not the contracting/construction community.

The 40% takes a lot for what we must go through to review this and document this. We need a simpler methodology to reach the 40% that will save us and our clients time and money.

All of us want to solve these issues and meet the goals of the AACP but we need the tools that are the most straightforward to do it.

Must be more of a division of responsibility where you empower your inspectors to do a change order on site – change in remodel and he can approve it right then and there. I think from an overall department standpoint it seems that everything is coming to one person so there is no division of responsibility for other people to approve stuff.

I am coming at this from a selfish point, I am a “true” local. I’ve been through it all, employee housing, then was able to get a FM place which is a historical building. We are in a 3,000 sf lot, 2,000 sf house. It is hard to raise a family in this. We keep getting shut down to the point where it would have been better to have won the lottery. We are at the point that we are going to leave if we can’t figure out a way to make the home how we want. We can’t change our windows to make our place more efficient. There are these other places that don’t fit into a big idea of what development looks like. To us it doesn’t seem like we are big developers we’re just trying to make a house we can live in.

I’d encourage making rules and changes for the average man – ones that all can afford.

C. Participant Questions and Comments on Proposed Calculations

What is Council using demolition as a basis for? What is the goal of combining the growth management quota system and demolition, what are they trying to do? In the end, it is going to trigger something.

How many houses are at maximum build out vs what is still out there available for growth? If we are worried about density, then that would be something to look into because I think we are very close to our maximum.

This is a reactionary measure. These issues are cyclical.

Curious about the inventory of homes sold here and what new construction is over $200,000. If you assign allotments, let’s not make them arbitrary. What was the historic nature?

I think these are great things you’re working on, but it is worth looking at these cycles and taking a step back. Will the new policies being drafted stand the test of time and not just the current market?

They are not talking about what the house looks like, it is more performance-based. All of a sudden, the competition goes to those who can afford to do what not everyone can.

If the AACP wants to make buildings more efficient than just make that the standard. Instead of competing, just make efficiency the standard.

Recession, Covid, etc., causes shifts in the market. I agree, raise the standards. You have to put arbitrary numbers out there but realize that you may have a number of permits depending on other factors.

Bringing it back to calculations, I think that the goals of both tracking and calculations are good. Depending on how it is implemented it can result in good steps forward. If we want to keep waste out of the landfill and modify existing homes rather than just take them down, it is helpful to look at what existing structures allow for. A lot of times there is not the depth allowed for these implementations. The policies need to allow for this. If some processes and some of these safety issues can be relegated to an inspector, we need to make it more specific around those types of things such as rotting plywood etc.

D. Participant Questions and Comments on Proposed Tracking

Can I also ask for some sort of tracking system that is different for multi-family? I was asked to provide demolition calculations for the entire building for one small unit.

Tracking is of the sections where there have been issues in the past, resultant policies built an entire safety system around those specifications. If some processes and some of these safety issues can be relegated to an inspector, we need to make it more specific around those types of things such as rotting plywood etc.

For the tracking system, it will add one extra step. It is appreciated, I think it is really difficult for us to go back and be asked for demolition calculations. This allows for flexibility with streamlining our process.

II. AFFORDABLE HOUSING

A. Participant Questions and Comments on Proposed Location

I think that the notion of south or north side of the river is antiquated. You can have an affordable housing projects on the south side and the number of parking spaces should have higher criteria no matter where the project is.

I’ve seen two different occasions under mixed-use district where there was an allowable density and both applicants were denied their right to additional floor area ratio through Special Review. Maybe you can get to a Special Review section of all codes to define 100% affordable to be approved through Special Review.

As an affordable housing developer, land costs are one of your biggest barriers. Historical properties are typically limiting to land value. Any time someone is taking a historical asset and returning it to local living, it is more valuable than a piece of vacant land. I would continue to argue that special review could and should apply.

It sounds like Historic Preservation Committee is just going to be a design review board because there will not be a discussion of mass and scale? This becomes very subjective.

Problems that have come are going to continue to happen. I think that when the hardest decisions in the community have to be made, it should be left to our electives, not volunteer boards. It is the people that have a consequence - our elected officials, that should choose how a project proceeds.
• As you increase density are you also looking at City infrastructure support ca\text{paCity}?
• Some things have been passed over on R6 – I get the notion that this is off limits for increasing density?
• I would like to see a review of parking and loosen the term so that it is not so rigid so that neighbors cannot make comments against otherwise quality products.
• It makes more sense and allows for more creativity. It allows for smaller projects in other zone districts. They are smaller, 4 or 5 units rather than a huge Burlingame-style place.
• It is interesting thinking about how we build it to incentivize folks to make it a really attractive place for people to live that have nowhere else to go.
• The inventory of RO – is there something that this demographic needs to use as an opportunity?
• Is RO more attractive to developers? There was an RO unit on APCHA that sat there and never sold because it was not affordable.
• Right-sizing is important – how do you incentivize making it an attractive product to get more bedrooms in the community?
• Question about the concept of the review board. Affordable housing goes to Planning and Zoning and Historic Preservation Committee. If they are compliant, would they be streamlined?
• If it is a conforming project, should they get to do it without all the overhead review.
• To me as a member of the community I’d desperately like our AH to be more cost-effective and more effectively house people. Also interesting about the 50% above grade housing. This just adds to the cost. People want basement space; it is desired by private sector but prohibited by affordable housing.
• Relative to the idea of having affordable housing in more places than currently permitted, I am concerned and I am deeply troubled by it. The US service land given its proximity should be high-density affordable housing. It is a miss that housing was sold off to private buyers rather than bought by the City. There was a discussion in my neighborhood to put much higher density housing and my neighborhood would absolutely be opposed to this. There are locations that are adjacent to transit where higher density would make sense.
• I think these are good goals in general but if you include the administrative path, it becomes how do we avoid a referendum?
• I’ve worked on homes like this that are fully compliant, but we must be very clear about aspects such as parking, mass and scale, design etc. The neighbors use this as leverage.
• I’d be cautious of rental vs ownership. You can have properties that the City has a partnership with and those can shift.

B. Participant Questions and Comments on Housing Mitigation

- How does a buyer know that the deferral agreement and an obligation exist and who is making sure that when I sell my house that this is happening?
- If you put a number out there, you are forcing City to take cash in lieu. If you put a quantity out there, then the burden on the purchaser is more substantial.
- Going back to calculations, have you looked at applying it to the lot area?
- Shifting from floor area to livable is a huge philosophical shift. I think you have done a great job at not touching the ‘hot buttons’, but I do think you’ll have another one of these issues with the local residents. You need to be prepared to address this because these are people who have lived here a long time and they feel like they’re getting burned with this.
- When you were talking about livable area, does this include the basement? This is double or tripling square footage?
- Consider lowering the requirements to make it more equitable and fair rather than a quadruple jump.
- One option that I haven’t seen pursued very much is taking the older affordable housing stock and redeveloping it. Ex: units out of Truscott. You can have twice the density.
- Have you run any numbers on what this will produce or how meaningful it will be based on past projects?
- I wonder if the amounts are meaningful in the aggregate to the City. The whole current code is very byzantine, but this will have a huge effect on the development costs of a house. This will lift prices overall in the market which is counter to making it a more affordable place to live. This simplifies policy to some extent, but are the dollars meaningful enough relative to the per square foot cost locally?
- The rate of depreciation should be directly tied to the computation of the mitigation required. In the RRC study from 2015, it was based on 30-year time period. If a full-time employee is based on 30-year period than the depreciation should be based on 30-year period. You should get 2/3 of the depreciation after 20 years. You need to be apples to apples – generating and mitigating based on the same standard.
- If the real estate market slows, might there be unintended consequences through this policy? If we pace the cost and create higher barriers and friction, won’t we further slow the market. You shouldn’t make impactful changes at a high watermark. For someone thinking about where they’re going to go to develop a property, if they’re paying $480,000 on just permits, that is a huge barrier. I do worry about the consequences when times are tougher.
- I wish we’d have come up with benefits for people who put AH on their lots. I think we need more incentives for those with a big house putting in a basement. You’re taxing existing to new rather than the total in general. This will tax those who you don’t want to.
- Has there been a flat-tax based on evaluation? This may not be fairer, but it seems like it could have certain things built in for credit earned.
- You want to encourage people to live here on a full-time basis. Maybe the depreciation factor is tied to where you pay taxes.
• If the goal is to create fair mitigation, it should be fair across the board. If the goal is to create housing the locals should want that just as much without the deferral. If the community's goal is affordable housing, then everyone in the community needs to provide for it. Deferring mitigation doesn't help with increasing more affordable housing.
• You need to have people who service and maintain houses and that's car trips etc. and short-term rentals seem to drive this more than anything else because they're essentially small hotels. If council's goal isn't to develop more affordable housing units then the idea of instituting any kind of monetary policy to supplement local housing - what happens to the money?
• Where do you apply the money? Where do you build? There is no place. Is the end goal for mitigation to build one specific project?
• This is ironic because we want to limit growth, but we want to increase density and higher traffic in smaller areas for affordable housing.
• Industry being taxed is the industry which no employees have interest in. Maybe put the housing mitigation on restaurants and lodges? You shouldn't penalize the smaller projects and take away the credit for what's already been hard. Increasing mitigation makes it difficult for those who are locals and grew up here.
• When someone is building a house and they are going to live here for 20 years, why mitigate at all if they are building it for themselves, the workers, to live in? We should welcome people who want to build their own residences and if they live in it they contributed to the solution.
• If someone built a house and called it RO would you allow them to sell off the credit? You've just created the opportunity to sell a credit off and live in the house for 20 plus years. This may be counteractive to real estate market because why would I depreciate my home but if they need it then that gives them an opportunity.

C. Participant Questions and Comments on Free Market Units

• Free market residential, there is virtually no such thing as a deed-restricted house turning into free-market residential.

III. DIMENSIONAL AMENDMENTS

A. Participant Questions and Comments on Dimensional Amendments

• What are the consequences to the neighboring property owner in allowing the owner to go from 5 to 3 feet? The consequence for neighboring properties needs to be thought out.
• This will be very hard on your staff and difficult to administer.
• I don't think it's necessary but allowing it is understandable. On new developments, there shouldn't be any allowances.
• Energy improvements - is there a limit to height and what you can do?
• You'll probably have to designate a no-fly zone where height additions can't happen.
• As someone who observes construction, I believe digging deep basements have disproportionate impacts. I'd ask you to figure out if big basements have these. How long does it take? How much of the street? Etc. I'd like to know if a square foot is really just a "square foot". From an impact point of view, my biggest issue is a project that takes a long amount of time. Being able to build a basement setback to setback when the house isn't able to make any sense.
• On the flip side, in our house which is historical, if we want to do anything we have to have a basement and the only way to do it is go all the way out to setbacks. I like things streamlined, but this is one of those things that just isn't. I know it is complicated and very specific and that's why I'm here.
• Why not say that they are to finish instead of sheathing? Make it more consistent for everything. It just adds the ability to change by inches, not floor area. You would be pushing the limit of setbacks rather than generating energy efficiency.
• I had a discussion with fire marshals and the three-foot window well is barely big enough for firefighters to get through with all of their gear on. It is difficult to get in and out of or even get saved by. Can it be built on an angle just to be big enough for a fire marshal to get in and out of there?
• You need to rewrite the definition of a nonconforming structure. Some were built per code but with setback adjustments are nonconforming so if you change anything they have to go through many processes. People would keep their houses longer if they can renovate.
An Open House was held on April 27th at Aspen City Hall in the Pearl Pass Room and the second was on the Pedestrian Mall. There was a total of 27 participants that showed up.

Project boards were displayed for the public. The boards contained background information on current conditions and Aspen Area Community Plan (AACP) as well as several potential policy statements. The participants were encouraged to respond through dots, sticky notes, and verbal engagement. The dots signified one’s level of support for each policy changes. Green dots meant “Yes, I support this policy”, yellow dots mean “I could support this with conditions”, and red dots mean “No, I do not support this policy”. Summarized below are quotes from verbal engagement and the written sticky notes.

I. AFFORDABLE HOUSING CREATION

• Affordable housing qualification should be more strict - 1,500 hours for a full time employee is a low standard.
• Qualified occupancy of APCHA units should be more strictly enforced.
• Appropriate enforcement equals AH units with no growth and limited cost.
• Dimensional variances should be allowed for affordable housing projects to make more effective use of limited resources.
• In very limited residential sound such as USFS, Main Street, location next to major travel corridors/public transit should increased units in density be considered.
• Dimensional variances should be permitted to make affordable housing efficient.
• Saving council need to remember that affordable housing has negative impacts two examples are density, demand for services, etc. it should not be sacred.
• How can people state their concerns for the project in the new process?
• Will people be notified of the 100% affordable housing project?

II. DIMENSIONS

• No setback encroachment variances in new construction.

III. HOUSING MITIGATION AND PERMITS

• Do not increase density in residential neighborhoods to create more affordable housing – Too many negative impacts – must comply with existing zoning including density.
• Housing mitigation considered duplicate payment in affordable housing – RETT payments and affordable housing mitigation is a double dip.
• Employment generation computation square footage and mitigation square footage definitions must be exactly the same.
• If you want to remodel, everyone who got in before the change gets off free, but those after get the impact fee?
• What is causing the decrease in mitigation? How much comes from RETT?
• What other tools are there for affordable housing mitigation?
• Construction is the only full time employee impact in a remodel if you keep it the same size, correct?

IV. DEMOLITION

• Should continue exemption for strictly square footage replacement of existing old structure should be encouraged.
• Limiting demolition allotment will come with unintended consequences. Under 40% demo projects will be more intensive disruptive, take longer etc. Focus on mitigation, smart demolition practices, energy efficiency and don’t create a new problem.
• Demolition scoring should include struct her age. Older structure equals greater access to demolition.
• For the portion of your house that has not triggered demolition, do you have to remitigate?
• There are a lack of benefits for designated lots. They have decreased so much that no one cares to get it designated or preserve it.
• Has the city ever thought about rent control?
• I’d like there to be more about the toll that construction takes on climate and sustainability.
Another pop-up event was held on the Pedestrian Mall on April 30th. In total, 22 members of the community participated.

Similar to the Open House, six project boards were displayed. The boards directed contributors on how to participate, offered background information on current conditions in Aspen, emphasized statements from the Aspen Area Community Plan (AACP) and displayed several potential policy statements. Project team members walked community members through each board and direction statement. After thorough explanations, participants were asked to offer their opinions on each statement through dots in addition to verbal communication. The dots signified one’s level of support for each policy changes on a spectrum from “Yes, I support this policy” (green dots) to “No, I do not support this policy” (red dots). Summarized below are both written and spoken opinions from this event.

I. AFFORDABLE HOUSING CREATION
   • Stop growing out, reuse what we have. Nothing should be taller than the Wheeler.
   • Affordable housing could be included in The Armory.
   • I would much rather see a big, very functional place for employees in town than scattered around.

II. DIMENSIONS
    • Affordable housing density should be able to be “called up” to allow an increase above the code. Some places might be okay for very high density of affordable housing and we need it.

III. HOUSING MITIGATION AND PERMITS
    • Allow affordable dwelling units (ADUs), but do not count them as mitigation.

IV. DEMOLITION
    • Hold open houses on permitted demos for public to recoup, use, and sell materials on that structure.
The following table displays the combined responses from the events discussed above (those that took place between April 13th and April 30th) in addition to the responses from Aspen Community Voice. Aside from the online survey, boards were used at each event to gather feedback for support of the potential policies in the form of sticker dots. The responses for each policy are summarized below. Please note that not all potential policies were displayed through each method of outreach. This is the reasoning for some totals appearing much smaller than others. It is also important to note that not all respondents gave feedback on each potential policy.

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>PROPOSED DIRECTION</th>
<th>TOTAL</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes, I support this</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>I could support this with conditions</td>
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</tr>
<tr>
<td></td>
<td>No, I do not support this</td>
<td></td>
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</tr>
</tbody>
</table>

### Demolition Allocations

A. Proposed Allocations

1. Implement a growth management allotment system for demolition projects. The allotments would be part of the 19 allotments currently available for free-market units.
   - Yes: 22 (48.9%)
   - Strongly disagree: 12 (26.7%)
   - Disagree: 11 (24.4%)

2. Use performance criteria to evaluate applications for demolition allotments.
   - Yes: 8 (27.6%)
   - Strongly disagree: 12 (41.4%)
   - Disagree: 9 (31.0%)

3. Creation of a framework of performance standards and expectations for demolition projects that can be adjusted over time to respond to new trends and community desires related to projects that have significant construction and other impacts.
   - Yes: 1 (14.3%)
   - Strongly disagree: 6 (85.7%)
   - Disagree: 0 (0.0%)

B. Housing Mitigation

1. Update employee generation rates to reflect impacts of construction and long-term operation of residential units.
   - Yes: 3 (11.5%)
   - Strongly disagree: 20 (76.9%)
   - Disagree: 7 (21.4%)

2. Update mitigation calculations to be based on "liveable area" rather than "floor area".
   - Yes: 1 (26.1%)
   - Strongly disagree: 12 (41.3%)
   - Disagree: 2 (6.9%)

3. Eliminate the credit for existing square footage that did not previously provide affordable housing mitigation.
   - Yes: 1 (11.1%)
   - Strongly disagree: 10 (22.2%)
   - Disagree: 14 (31.1%)

4. Update the deferral agreement for local residents.
   - Yes: 2 (8.7%)
   - Strongly disagree: 19 (82.6%)
   - Disagree: 1 (4.7%)

5. Consider and evaluate a depreciation factor for affordable housing mitigation for residents. Mitigation requirements would be deferred for local residents while living in their home, and the required mitigation due would depreciate over time.
   - Yes: 7 (25.0%)
   - Strongly disagree: 9 (31.0%)
   - Disagree: 12 (42.9%)

### Affordable Housing Amendments

<table>
<thead>
<tr>
<th>A. Location</th>
<th>1. Allow multi-family affordable housing to be developed in all residential zone districts. Density allowances would be increased, but existing floor area and other dimensional limitations would remain in place.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes: 18 (34.0%)</td>
</tr>
<tr>
<td></td>
<td>Strongly disagree: 28 (52.8%)</td>
</tr>
</tbody>
</table>

| 2. Create an administrative review path for affordable housing projects. |
| 3. Eliminate non-conformity limitations for non-conforming lots for records for projects that are 100% affordable housing. |
| Yes: 9 (18.4%) | Yes: 6 (12.2%) |
| Strongly disagree: 18 (36.4%) | Strongly disagree: 12 (24.4%) |

<table>
<thead>
<tr>
<th>B. Housing Mitigation</th>
<th>4. Update the deferral agreement for local residents.</th>
<th>Yes: 2 (8.7%)</th>
<th>Strongly disagree: 19 (82.6%)</th>
<th>Disagree: 1 (4.7%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>C. Free Market Units in Mixed-Use Zone</td>
<td>5. Consider and evaluate a depreciation factor for affordable housing mitigation for residents. Mitigation requirements would be deferred for local residents while living in their home, and the required mitigation due would depreciate over time.</td>
<td>Yes: 7 (25.0%)</td>
<td>Strongly disagree: 9 (31.0%)</td>
<td>Disagree: 12 (42.9%)</td>
</tr>
<tr>
<td>6. Allow existing free-market residential units to be updated and redeveloped in the Mixed-Use Zone District (MU), but prohibit the establishment of new free market units or existing uses being converted into free market units.</td>
<td>Yes: 0 (0.0%)</td>
<td>Strongly disagree: 4 (4.4%)</td>
<td>Disagree: 5 (5.5%)</td>
<td></td>
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</tbody>
</table>
After the initial round of public engagement, once high level potential policy responses had been identified, a series of one-on-one technical stakeholder interviews were conducted by staff to further refine potential policy responses. Technical stakeholders were selected based on their involvement, understanding, and expertise in the policy areas being considered to respond to the moratorium. Each meeting was open forum discussions that allowed staff and the technical stakeholder to explore potential code responses in more detail. The open forum allowed each technical stakeholder to discuss opportunities based on their specific area of expertise or opinion on best practices and approach. These interviews identified code responses that should be adopted to accomplish intended policy outcomes, eliminated redundant or counterproductive code responses that did not help accomplish stated policy goals, helped to identify code responses that were impractical to implement, and added specificity to potential code responses.

I. DEMOLITION

- Net zero would be the way to go, don’t worry about size just focus on performance and energy production. Conservation gets you to 70-80% of net zero.
- Retro-fitting is the best way to improve building performance on the outside.
- Commercial mechanical equipment regulations are really hard to meet. The 72" rule is not quite tall enough, and 6" is too small.
- mandate efficiency sometimes results in reduction in cubic footage, which is not reasonable to expect owners to choose that, so have to require it.
- Noise is a big issue for equipment in the setback.
- Height of acoustical screens - increase allowances.
- Air source heat pumps are the direction the industry is going.
- Add flexibility on mechanical equipment screening visually, but mostly for acoustics.
- Noise in setbacks is a concern. 60-65 decibels for equipment. Heat pump/boilers for radiant heat and cooling may be better to be in the setback. They can also go on the roof.
- Ground source heat pumps are viable alternative though they will have a big cost increase and only a small efficiency improvement.
- Heating efficiency has to be 100%- forces them to consider ground source heat pumps
- Get away from natural gas.
- Heat pumps are good but likely need backup heat source.
- Heating with air source heat pumps in pits requires snow melt which is one negative of that option.
- 48" depth only addresses cooling – not helpful for heating. At grade or above - 72-80" above roof plane would be preferred alternative.
- Put enforcement into HERS system
- AV/Humidity/security – “luxury load” is where the real energy consumption (heat tape, snowmelt, holiday lighting) is that we don’t regulate.
- ERIs (Energy Rating Index) are a good tool.
- Caires was a problem – could game the system – problem with any performance software. Instead of designing the most efficient building in practice, you design for the best score in the software which doesn’t always translate to best design practices.
- Options for compliance could include with and without PV scores, or cash-in lieu offset
- Summit County requires ZERH (Zero Energy Ready Homes) on all their permits
- Real crux would be ZERH + lower number ERI without PV
- In terms of the carbon footprint of homes, accounting is a real challenge. You can track number, don’t require minimums right off the bat.
- For remodels – smaller equipment may be more appropriate (especially in setback) maybe 30” above, 48” below
- Allow for eaves to project over mechanical area/equipment even if into setback to prevent snow from being an issue.
- Mechanical screening needs to be clarified as not counting as a fence, and not floor area. Need to require screening for visual and noise impacts. Landscaping, standard materials, etc. should all be allowed for screening. Minimum size is necessary.
- Potential solution for Historic Preservation demolition projects could be a joint review – HP reviews HP and P&Z reviews everything else
- Demo tracking should be 5-7 years at most, this process bogs it down and drives price up.
- Demolition sheets need to be included in every permit
- Duplex tracking is an issue, some potential solutions are 20% to 40% per unit. 20% per unit with an exemption under 5%.
- Replacing and improving windows is key to efficiency: Get rid of penetrations in the exterior.
- For masonry structures, inside wall with phonelic foam is a barrier. For this issue, deal with surface tension water. Limiting to R-15 on interior due to space requirements.
- Historic Preservation consideration, performance improvements help the longevity of the structure.
- For mechanical systems, heat pumps are not as efficient when it gets really cold, but ground source is expensive. Make enclosure efficient to reduce electric demand to heat.
- Mechanical equipment should have no height limit on roof.
- Talk to equipment manufactures about mechanical equipment size limitations for highest efficiency.
- Double walls assemblies should count to outside of inside wall.
- Mandate energy recovery ventilation (ERV) on ventilation systems.

II. DECONSTRUCTION

- Important to distinguish between different levels – deconstruction, grinding, throw it out.
- Drywall recycling is the biggest road block.
- Be careful of whack a mole – you don’t want to push impacts somewhere else (e.g. Garfield County Landfill).
- Green halo is used by Pitkin County – may be worth including in City process.
- A good first step would be education, get information out to people that are involved in demo and waste hauling – who does what? Who takes what? What resources are available? No one knows where to go.
- A training program would be helpful and maybe necessary depending on requirements put in place.
- Incentivization is important, for instance could PitCo pay money for scrap metal?
- Repurpose on-site is big help – requires full deconstruction. The process of unbuilding will reduce the number of dumpsters needed to sort.
- How do we accommodate fire/water damage?
• You need to address landfill monitoring.
• Drop and swap – construction materials required to be submitted, could re-sell used materials to approved haulers.
• Put together list of what can be recycled, and what it can be recycled into.
• Metal recycling requires a trip to Denver/Grand Junction for best prices. Even at that distance it’s worth the drive.
• Foam/insulation in concrete makes it more difficult to repurpose.
• If there are trace amounts of asbestos in any materials, it cannot be run through grinder.
• Sorted demolition better than non-sorted. There is an increase in cost for unsorted demolition.
• For concrete and metal repurposing, steel is the best to recycle and concrete has to be clean. Silt is the closest metal facility, but Grand Junction and Denver pay the best.
• Taking waste to the landfill should be the highest cost.
• City should talk to south canyon about rejecting Pitkin County waste.
• City of Palo Alto requires deconstruction for all SFR demolitions. They have numerous existing re-use facilities and tax benefits are the main motivator.
• It is important to quantify weight of stuff that’s salvaged for overall tracking. For example, if you sell appliances at restore, how does that weight contribute to overall diversion requirements. Reuse/resale facilities don’t always track things by weight.
• Green halo is used to divert 25%, deposit is required. If they want their deposit back, they need to achieve that 25% mark. The landfill is an external review agency for Pitkin County permits.
• No setback encroachment variances in new construction.

III. AFFORDABLE HOUSING MITIGATION

• Do not increase density in residential neighborhoods to create more affordable housing – Too many
MEMORANDUM

TO: Mayor Torre and Aspen City Council

FROM: Ben Anderson, Principal Long-Range Planner
       Phillip Supino, Community Development Director

MEMO DATE: March 10, 2022

MEETING DATE: March 14, 2022

RE: Central Questions requiring Council Direction on the Moratorium Response in the areas of:
   • Pace and Scale of Residential Development
   • Affordable Housing Opportunities

REQUEST OF COUNCIL: Following previous discussions with Council related to the moratorium on overall scope, problem statements, and potential areas for policy action, and in response to input received from the public and technical stakeholders, staff requests direction from Council on a few specific topics as this work proceeds.

Staff poses specific questions in the memo below and will facilitate a discussion with Council on these questions at the Work Session on March 14th. The response to these questions will provide more precise shape to staff’s work in the coming weeks.

SUMMARY AND BACKGROUND: In a previous memo to Council on February 1, 2022 (Exhibit A), staff provided summaries of previous discussions with Council and staff’s thinking related to high-level policy consideration of the residential development and affordable housing aspects of Ordinance 27. Council provided support for the identified issues and the framing of possible responses.

Using this previous summary as the guide, staff and our consultant team continue to evaluate this list of topics as we analyze and prioritize the responses that are necessary to be completed during the moratorium and those that are important but could instead be finalized after June 8th.

As staff works through this prioritization exercise, a few policy choices have emerged as foundational and need direction at this stage in the process.

STAFF DISCUSSION: In the range of topics identified in Ordinance 27 and subsequent discussions, staff requests direction in the following areas:
Pace and Scale of Single-Family and Duplex Residential Development

This is an expansive topic that has been identified for several reasons:

- The physical mass and scale of many of these residences are perceived to be contrary to community character and the AACP.
- The frequency of demolition and the overall size and energy use of these residences are contrary to Aspen’s climate and environmental goals and commitments.
- The intensity and duration of construction activity is having negative impacts to neighbors and neighborhoods.
- The extent of new construction and the nature and operation of new residential properties is straining community infrastructure and undermining community climate action.
- The intensity of residential development and redevelopment is not managed as intended by the current provisions in GMQS.
- Residential development and redevelopment are not providing affordable housing mitigation proportionate to their employee generation impacts.

Staff is evaluating the best path to respond to several of these issues. Some solutions may be found in amendments to the Land Use Code, others in adoption of new building and energy codes, or in the creation of new provisions in other areas of Aspen’s Municipal Code (example: construction waste standards). **A central policy choice has emerged:**

1) Do we intend to address some of these impacts by reducing the size of new or redeveloped homes by limiting floor area below existing allowable dimensions?

OR

2) Do we intend to change mitigation requirements to better reflect the impacts that this type of development is having on the community? This option could be done in combination with other alternatives that do not reduce floor area.

The following discussion is not intended to launch an evaluation on specific tactics, but to provide examples, some level of detail, and context for the larger policy choice.

**Floor Area**

Reducing the floor area in a home is perhaps the most direct linkage to the impacts of residential construction that have been identified in the larger conversations around employee generation, construction intensity and duration, and importantly, energy consumption. Reducing floor area would reduce the size of any new homes built in the community, thereby reducing its impacts to the community as described above. Depending on the amount of the reduction, it would also change the economics around redevelopment of existing residential properties. Existing homes larger than the revised floor area amounts are more likely to be remodeled than demolished, so as to retain the existing house size.
As staff and our consultants have talked with the development community since the moratorium came into effect, this is the topic that is causing the most concern, uncertainty, and anxiety. When a single square foot of gross floor area in a single-family home is conservatively valued at $3,000, reducing floor area by even minimal amounts will have definitive effect on the entire valuation of a project or real estate transaction. Any proposal to reduce either net or gross floor area would have significant impacts across the real estate and development economies and could potentially have unintended consequences for resident homeowners.

If limiting the allowed floor area were to be pursued, there are at least three things that could be done. Any of these three options would functionally reduce the size of homes in development or redevelopment scenarios:

1) Limiting the net, allowable floor area as established in chapter 26.700 of the LUC that sets the dimensions for each Zone District.

2) Eliminating or reducing the floor area exemptions that are established by Section 26.575.020. Most impactful are the current exemptions for sub-grade areas (basements) and garages.

3) Establishing a new calculation that would create a maximum allowable gross square footage – that would include our current net allowable floor area with some addition of currently exempted area (basements, garages, etc.) that would be allowed under this threshold.

At this point in the process, staff does not recommend reducing floor area – whether net or gross, for the following reasons:

1) Any discussions (both current and historic) about proposed reductions in house size in Aspen or in Pitkin County have been very contentious, and to use a cliche – is a topic that “extinguishes all of the oxygen in the room”. More directly, staff believes that this tactic would preclude the community from finding areas of agreement on other important issues under consideration during the moratorium.

2) The reduction of floor area – either net or gross, unless substantial, would not likely translate into the outcomes that Council is seeking with respect to community character, climate and environmental protection, or development regulation.

3) Calculating a reduction in floor area that is based on a defensible rationale for the specific quantity of the reduction would require a lengthy and complex study, particularly given the likelihood of litigation over such a change.

4) There are other potential strategies that could be as impactful towards the outcomes that Council is seeking and may be more likely to generate a cooperative atmosphere.
Non-Floor Area Options

Staff has identified a variety of potential alternative responses that could effectively lead to outcomes envisioned by Ordinance 27. As we have had initial conversations with stakeholders, it is staff’s view that while there may be some reluctance within the real estate and development community, and property owners, these policy alternatives may be less contentious overall. It should be noted that these ideas have not been decided on but are examples of the kinds of policies that could be an alternative to directly reducing floor area.

1) **AH Mitigation** – Already contemplated by Ordinance 24 of 2021 (currently tabled), this would reassess how residential development mitigates for their employee generation impacts – particularly in redevelopment scenarios. Council has approved a contract to update the study on which residential mitigation is based.

2) Changes to **Calculations and Measurements, 26.575.020** – While some areas of this section of the code could be changed to have the direct effect of reducing floor area (example: sub-grade exemptions), staff believes that other areas of this section could be altered to reduce the perceived mass and scale of a home without limiting floor area. Examples of this type of change could be new calculations for how the code measures height, or how grade is defined. Changes could be made to the types of development that are allowed in setbacks, or to how the code calculates decks and other outdoor areas. A positive outcome across the board that could be a result of these efforts – is bringing improved simplicity, clarity, and consistency to topics that often confound staff and the design community.

3) Changes to Growth Management rules to include residential demolition – the general idea in this area is to use the GMQS to create allotments and performance standards for residential projects that trigger demolition. This approach would likely place a governor on the volume of residential demolition/redevelopment and ensure those activities support, not undermine, community character, climate action, and environmental protection policies.

4) **Identifying performance standards, and possible incentives or impact fees related to energy consumption and construction waste.** This would be a direct way to ensure residential redevelopment supports climate action and environmental protection policies. It could also produce revenue to support programs in those policy areas.

5) **Adoption of building code and energy code updates to bring as much efficiency as possible to Aspen’s residential development context.** These efforts are already underway, and staff has initiated conversations with the building department and design community to identify changes to the Land Use Code that will be necessary in support of these efforts.
6) Working with other City departments in a very intentional way to bring consistency and clarity to city rules and requirements in support of the issues raised by Ordinance 27 and to ensure that we are not working at cross purposes. An example of this could be improvements to aspects of the required Construction Management Plan (CMP).

It is important to note that in staff’s view, some aspects of these alternatives are likely necessary to implement under the moratorium, while others are not. Additionally, several of these alternatives would require coordination across City departments, beyond Community Development.

In evaluating this policy choice of physically limiting house size (floor area reduction) versus mitigation for impacts and other alternatives, staff recommends impact mitigation and other alternatives. It is staff’s belief that a combination of a recalibrated mitigation calculation and other tactics (examples identified above), could be equally or more effective than reducing floor area. This approach has the significant added benefit of likely reducing community conflict over the moratorium code amendment process.

Staff seeks direction from Council on the majority preference between these two approaches.

**Affordable Housing Opportunities**

At the policy level, staff and Council have identified several areas for evaluation of policies to facilitate the creation of additional affordable housing units (example: improvements to the AH Certificates Program). While staff believes that a whole suite of tools, enhancements, and incentives will be necessary to really move the needle in this area, central policy choices have emerged. It is staff’s view that the direction from Council in these specific topics are foundational to our work on the affordable housing topic during the moratorium and beyond:

1) Does Council wish to bring more certainty and predictability to the development of affordable housing projects by making the development review process more streamlined? Policies in this area would allowing qualifying projects that met certain performance standards be reviewed administratively or proceed directly to building permit. Council and staff have previously called this “by right” AH development.

2) Does Council wish to promote the opportunity for AH development across all Zone Districts – residential and commercial?

3) If Council wishes to provide the opportunity for AH development across Zone Districts:

   - Should all dimensions for affordable housing, other than the number of units, remain consistent with the underlying Zone District? (floor area, height, setbacks, etc.) OR
• Should projects that are 100% affordable, be granted additional dimensional flexibility beyond the limitations of the underlying Zone District? In more direct words, should 100% AH projects have different dimensions than the free-market uses in a particular Zone District?

In staff’s outreach discussions, it is clear that there is general support of the idea that affordable housing is appropriate across all neighborhoods in town, but with an important caveat – that it must be of an appropriate scale and character to fit into the neighborhood fabric.

Question 1, above, asks about a streamlined or “by right” process for 100% AH development. In staff’s view this would be a positive foundation on which to build other tactics and incentives in support of affordable housing. Council should note however that AH projects currently require at least a review with the P&Z or Historic Preservation Commissions in a public hearing that gives the public and neighbors a chance to weigh in. Moving this review to an administrative or “straight to building permit” process would make development projects that meet performance standards much more predictable, and certain, but would remove public involvement from the review of specific projects.

With direction from Council on these topics, staff does believe that some of the potential changes in this area would be best addressed during the moratorium – and will be a subject of our work in the next several weeks.

CONCLUSION AND NEXT STEPS:
As staff and our consultant team continue to analyze the issues and data and talk with an increasing number of members of the public and experts in the development community, we are engaged in a funneling and prioritizing exercise to identify the most necessary and effective actions to pursue during the moratorium. The direction received on the questions posed above will allow staff and our consultants to fully process and integrate the ideas gathered during our initial public engagement efforts as we shape possible policy and regulatory responses to Ordinance 27.

As staff work progresses, we will compile of running list of policies, code amendments, and programs which are important responses to Council’s desires for the moratorium project but are not essential to complete under the protection of the moratorium. That list will be included as an exhibit in upcoming Council packets and form the basis of the ComDev and other departments work plan discussions with Council in the coming months and years.

In the coming weeks, staff will continue to explore policy choices with Council and will begin crafting code changes. In early to mid-April, staff will be re-engaging with the public and technical stakeholders to discuss any policy or regulatory proposals before finalizing any Amendments for Council’s eventual consideration. Staff anticipates first and second reading hearings to be scheduled for late April and early May, in advance of the May 7th deadline for ordinance approval, the 30-day effective period for ordinances, and the June 8th expiration of the moratorium.

Staff Memo, Policy Direction – 3/14/22
Page 6 of 9
FINANCIAL IMPACTS: N/A

ENVIRONMENTAL IMPACTS: N/A.

ALTERNATIVES: N/A

RECOMMENDATIONS: Council provide direction during the Work Session discussion in response to the policy questions posed by the memo.

CITY MANAGER COMMENTS:

EXHIBITS:

A – Policy Area Summary, Excerpt from Staff Memo, 2/1/22
EXHIBIT A – Policy Area Summary; Excerpt from February 1, Work Session Memo

1) The pace and scale of free-market residential development and redevelopment

- Development allotments – analyze the current system of development allotments to:
  a.) manage development,
  b.) mitigate environmental impacts,
  c.) support concurrency of infrastructure in accordance with the intent of GMQS,
  d.) address unmanaged development types, STRs, and annual allotment amounts, and
  e.) address residential energy and resource consumption from development and operation of structures.

- Demolition - assess the effectiveness of the definition of demolition at:
  a.) triggering compliance with GMQS standards
  b.) mitigating environmental and community impacts from development,
  c.) restraining or eliminating non-conformities and delivering quality design outcomes.

- Zoning and Calculations - analyze residential development allowances and the methods for calculating building mass and scale metrics to assess alignment with community character.

3) Promotion of Affordable Housing Opportunities

- Credits Program – amend the AH credits program to support clarity in project financing, increase utilization, and realize more units from the program over time.

- Residential Generation and Mitigation Study – conduct a generation and mitigation study which accounts for the current conditions of the residential development sector.

- Zoning – assess opportunities to use zoning tools to reduce obstacles to and incentivize the development of more AH.

- Review Procedures – assess by-right, administrative, and board review standards and procedures to ensure they support community AH policies.

4) Development Procedures within the Land Use Code

- Demolition – analyze the definition of demolition & non-conformities to align regulatory standards with AACP policies and mitigate new community impacts.
- **Zoning Standards** – assess Land Use Code regulations to ensure permitted, conditional, and prohibited uses support AACP policies.

- **Review Procedures** – assess by-right, administrative, and board review standards and procedures to ensure they support community development and climate and environmental policies.
REQUEST OF COUNCIL: As the first step in the response to Ordinance No. 27, Series of 2021, staff requests that within the discussion on January 11th, Council refine their goals and priorities for work to be conducted prior to the conclusion of the moratorium on the topics identified in Ordinance No. 27. Said another way, it is necessary for staff to have a clear understanding of Council’s view on where to focus our energies for the next five months and what success will look like when we evaluate our collective efforts on June 8, 2022.

The discussion on January 11th will be essential in prioritizing the work within staff’s workplan established in response to the Moratorium. With this direction, staff will then identify:

1) The policy areas necessary to study in pursuit of Council’s goals.
2) The specific sections of the Land Use Code to evaluate.
3) A prioritization of distinct elements of this work.
4) The necessary components of an effective community engagement plan.
5) The expertise and scope of professional consulting services needed in support of staff’s work.

It is envisioned that staff will return to Council for a follow-up to present with a work plan for further direction and approval by Council.

SUMMARY AND BACKGROUND: Ordinance 27 is a response by Council to several issues that have come together and intersected in recent years in unprecedented ways for the Aspen community, environment, and economy. Some of the issues identified in the ordinance are topics that Aspen has wrestled with for decades. Others are newer and have become part of our context as the result of new technologies; new trends in local, regional, and national real estate markets; rapid changes in local and global climate and environmental health; and impacts from the work and living patterns that have shifted in response to COVID-19. While Aspen has long been a leader in actions addressing climate change, our understanding has come into more clear view of the impacts that our
built environment and development patterns have in undermining our responsibility to global climate efforts and our own clearly defined community climate goals.

From time to time, it is essential for communities to consider the path they are on and whether it will arrive at the place the community desires to be. While Aspen has unique characteristics in our residential economy and has unparalleled success over the years in responding to the challenges of growth and affordable housing, our city is not alone in viewing the current situation as a crisis. Many of our peer communities in the Roaring Fork Valley, throughout Colorado, and across the Mountain West are responding to these issues in unprecedented ways with an urgency consistent with the scale and importance of the challenge. We are not alone in understanding the critical nature of our response to what looks, feels, and has been quantified as a conflagration that threatens essential aspects of our and other communities.

Together, as identified in Ordinance 27, these specific issues have created an emergency:

- Our current residential development pattern is contrary to strongly stated community values and goals within the Aspen Area Community Plan (AACP).

- Our current residential development pattern undermines and will prevent Aspen from meeting our local climate action and environmental protection goals and responsibly participating in global climate agreements and initiatives.

- Our long-standing Growth Management Quota System no longer manages growth as it was intended to, nor is it able to respond to the nature of the impacts to the community of the current residential development pattern or trends in the use of many of our residences as short-term/vacation rentals.

- Aspen’s Land Use Code does not provide adequate regulations related to short-term/vacation rentals in managing the impacts to neighbors, ensuring a balance of land use types within the community, ensuring the use covers its costs to the community, and ensuring that rentals are safe and provide a quality product to our visitors.

- Our current residential development pattern does not produce sufficient opportunities for the development of Affordable Housing to support an adequate labor market, in meeting the needs of our employees, employers, and the maintenance of lived-in, vibrant, sustainable community.

- The development procedures in Aspen’s Land Use Code often have the effect of encouraging residential development that may be contrary to our community goals and discouraging residential development that supports our goals.

Through the adoption of Ordinance 27, Council took the boldest step to date among peer communities in linking issues of community, environmental, and economic health to...
specific development activities. This action has set staff on a path to develop new solutions and regulatory responses to ensure alignment between the Land Use Code and the Aspen Area Community Plan. The work plan that will result from discussions on January 11th and February 1st will shape Council, staff, and the community’s response to these concerns.

**STAFF DISCUSSION:** As staff views the next several months of our work with Council and the community, we see three things as essential to success:

1) Identifying effective, practical, and defensible responses to these issues.

2) Taking a realistic approach to the scope and scale of the work that can be accomplished during the time constraints of the Moratorium.

3) Engaging in an open and honest conversation with the community on the nature of the problems we are responding to and the solutions that will eventually be presented for consideration.

**Constraints**

While the nature of a development moratorium is intended to create a pause, take a breath, and respond with thoughtful and impactful policy and regulatory solutions to critical issues, there are constraints that staff, Council, and the community must acknowledge as we begin this work.

- **Time**
  
  As Ordinance 27 identifies and is confirmed by a common interest to end the moratorium as soon as possible, there is not unlimited time to act. The issues being addressed are daunting problems and we have a limited time to respond. This constraint forces us to be strategic and focused in identifying a reasonable and practical scope that will prioritize the most effective solutions. It is essential that Council prioritize work that requires the protection of the moratorium to conduct. It is staff’s view that this work ought to focus on those things most impactful to the pace, scale, and economics of residential development.

- **COVID**

  While we have all been flexible and creative in getting things done over the last two years, COVID continues to be a challenge that adds an additional degree of difficulty to this work that must be considered. The types of conversations and collaboration that best support work of this nature between staff, staff and Council, and staff with the community are more challenging and less effective if they are held virtually out of necessity. We are committed to finding solutions to best address this circumstance and hope that the situation allows for more normal interactions as we move forward, but this will likely shape the nature of community engagement as our conversations unfold.
• **The “wicked” nature of the problems we face**
  
The issues that are addressed by the moratorium are primarily economic and environmental in nature. While staff has confidence that we can respond with impactful proposals, these issues are complex and often confounding. If they were easy issues to define or resolve, Aspen would have already done so. We will need creative and collaborative effort, patience with the process, and awareness that, as has been the case for nearly a half century, the community’s response to these wicked problems must be iterative and adaptable.

• **Conflicting Views**
  
Many of the issues considered by Ordinance 27 relate to topics that have long been argued in Aspen and elsewhere. As has already been identified in commentary in our newspapers and on social media, and in public comment as Ordinance 27 was being considered, there are clear differences of opinion on the fundamental framing of this situation. As examples, there are competing views on:

1) What is the proper definition of the term “growth”? 2) What is the appropriate role of affordable housing within Aspen? 3) What aspects of our economy and community bear responsibility for the currently untenable dynamics and for supporting potential solutions?

There are many more of these kinds of questions being expressed in the community, and while a successful moratorium process will hopefully help us all to better understand these different perspectives, we have to be aware that some of these topics are things where consensus may not be able to be found.

However, it will be imperative for all involved to understand that any inherent friction on these topics and in these conversations are between people who care deeply about and hold a common interest in the future well-being of Aspen and its citizens and visitors. Staff is committed to providing Council and the community with the data and framing necessary to achieve shared understanding – knowing that may not always result in agreement.

**What staff has heard**

While not to constrain Council’s thinking on this matter or to predetermine the possible outcomes that may be pursued, some basic framing may be helpful to guide the conversation on January 11th.

Staff has heard Council members identify the following topics of concern across multiple work sessions, during the Council goal setting retreat this summer, the more recent housing-focused retreat, in emails discussing citizen concerns and news stories that illuminate local and regional issues, and in individual conversations both before and after the passage of Ordinance 27.

1) **Short-Term/Vacation Rentals.**

Staff has heard five common concerns related to the expansion of the STR market and the current regulations that are contained in the Land Use Code:
• STRs are a land use distinct from residential and lodge uses. Yet land use regulations do not make that distinction. This results in a variety of inequities and community impacts which our current system fails to address.

• Aspen has not sought to mitigate the impacts of STRs on employee generation and other infrastructure and service demands.

• The community has not established review criteria to ensure basic health and safety standards for individual STRs, or to provide common expectations related to property management and guest behavior standards.

• The scale and rapid expansion of STRs are changing the nature of important aspects of neighborhood and community character in ways that we are just beginning to understand. It is clear that some STRs are operating as commercial uses in dedicated residential zone districts.

• STRs, particularly in multi-family developments, have accelerated a transition of many housing units that previously were owned or rented by working locals into de facto lodge units. The displacement of locals from these units over time is not a new trend, but STRs have brought a new scale and pace to this challenge.

2) The pace and scale of free-market residential development and redevelopment. This basic statement captures a robust range of community and Council concerns:

• Aspen’s Growth Management Quota System does not capture or mitigate the impacts of current trends in the real estate and development context.

• The cumulative impacts inherent in the demolition and redevelopment of large single family and duplex residential properties is inconsistent with Aspen’s ongoing leadership in responding to the global climate crisis. Council has expressed desire to find solutions in reducing the cumulative energy demands and CO₂ emissions resulting from our built environment.

• The mass and scale of homes built in response to current trends in single-family and duplex development are inconsistent with established community values expressed in the AACP.

• The scale, complexity, and concentration of residential construction projects creates an undue burden on neighbors who must tolerate construction noise, parking constraints, and other negative impacts of development that can take years to complete from start to finish.

• The scale, complexity, and concentration of residential construction projects creates undue burdens on community infrastructure including roads and bridges,
parking, and public utilities, as well as environmental infrastructure like solid waste management systems, air quality, and water quality.

3) Affordable Housing production.
In Council’s continuous exploration of opportunities to produce more affordable housing units in meeting the demands of our workforce, community, and economy, the following questions have been asked:

- Are there opportunities in the Land Use Code to make the development of affordable housing less difficult and more predictable for both public and private sector projects?

- Are there additional incentives that could be provided to encourage more private sector development?

- Are there strategies in the Land Use Code and financial tools that could encourage the onboarding of new affordable housing units that are “development neutral”? The idea of development neutral affordable housing broadly means that both in the funding and creation of the additional AH units that we need, that we avoid new physical development that the community does not desire.

4) Development Procedures within the Land Use Code
This Council and previous Councils have expressed concerns about our development review process and have asked the following questions:

- Are there ways to make the review process more efficient and predictable while still protecting the intent and integrity of a specific review?

- Are there ways to reduce the loopholes in processes that can lead to undesirable development outcomes, particularly in the residential sector?

- Can we ensure that review boards are granting approvals that align with the intent and letter of the Land Use Code?

- How can development review processes be designed to make easier the types of development identified in the AACP as being necessary for the maintenance of community character and sustainability. Conversely, what processes can be designed to ensure that other development types cover their costs and impacts to the community while supporting public goods and infrastructure?

Specific questions for Council

- Do staff’s summaries of the Ord. 27 topics reflect your thinking about those topics?

- Are there policy areas or topics relevant to Ordinance 27 not touched upon in the descriptions above?
• Does Council support the concept of prioritizing that work which requires a moratorium to properly conduct, while putting other work on a longer timeline?

• What ideas for community engagement do you have that staff should include in project planning?

At the meeting on January 11th, for each of these areas, staff will be asking Council if the framing above captures their understanding of the concerns that have been previously expressed. From there, we will work to identify the outcomes or measures of success Council wishes to pursue in each area.

CONCLUSION AND NEXT STEPS:
The direction from Council that results from this discussion will be essential in developing effective response to the Moratorium. Because of the potential expansiveness of these topics and the time constraints imposed on the process, thoughtful prioritization of our collective work is crucial to success. While staff will certainly pivot in response to future Council and community input that may emerge along the way, staff believes that an upfront, clear and specific statements of what success will mean – will provide the necessary foundation on which staff can build the process.

Staff has spent the past few weeks bringing consultants online to support various elements of the project, identified resource needs to support our work, and begun to conceptualize policy and regulatory ideas to responds to Council and community direction. Staff expects to return to Council for consideration of a proposed work plan that outlines specific policy elements to pursue, a plan for community engagement, and an overall project timeline.

FINANCIAL IMPACTS: None at this time.

ENVIRONMENTAL IMPACTS: None at this time.

ALTERNATIVES: N/A

RECOMMENDATIONS: Staff recommends a robust discussion on January 11th that establishes Council direction on their desired outcomes and measures of success in response to Ordinance 27, Series of 2021.

CITY MANAGER COMMENTS:
City Council

I have been a very active participant in the community discussion with Ben Anderson and team regarding the residential standards. I appreciate all of the work and outreach that has gone into the recommendations. I was hoping to attend the June 14 or June 28 Council meetings, but cannot due to work travel. I am sending this note in lieu of real-time feedback in the upcoming meeting.

I have reservations about several aspects of the changes, but to provide focused feedback, I believe we are setting the annual demolition count too low and we will create two harms that exceed the benefits of setting annual demolition count at 6. I would encourage council to at least double the number of annual available demolitions to 12, though 15 seems like a safer threshold. The two harms we will create are:

1. We are likely to damage property values for long-tenured locals with older homes. Some of these homes may be candidates for a full refresh upon their next sale. If a prospective buyer cannot be certain of when or if they will be able to gain a slot in the demo system, the buyer will require a substantial discount for that uncertainty or will not purchase. 6 demos is a low enough level that educated buyers will be concerned. This may seem unlikely now, given the real estate market of the last 24 months, but policy should consider bad markets and average markets, not just boom times. Existing local homeowners will be damaged by a cap this low because the uncertainty and risk of gaining a demo permit will be priced into the value of their home.

2. Aspen has a significant number of old and occasionally decaying single family homes. The local real estate market is vibrant because we enable a reasonable turnover rate of those properties. New owners contribute to the community by upgrading the housing stock - both aesthetically and in terms of environmental performance. Aspen remains aesthetically attractive and environmentally modern partly because the free market operates to refresh the housing stock over time.

We can employ a more empirical framework to set the demo level. I ran through some math with Ben, which I will summarize here. It is imprecise, but may offer a more structured approach to setting the number. Aspen has roughly 3300 single family housing units that are not historical. It is hard to know exact ages, but a reasonable estimate is that roughly 25% or 825 homes are currently older than 30 years. Each year, this number of single family homes older than 30 years likely grows by 50 to 100 homes. Reaching 30 years does not mean a home should or must be demolished. Rather, at that age, it enters the pool of potential consideration for a full refresh over the subsequent 30 or 50 years. The resulting useful life expectation of either 60 years or 80 years (30+30 or 30+50) would imply that we should target the demo number at somewhere between 1.5% and 3.0% each year of the homes in the >30 year age group. Some of these homes will be refreshed through a <40% demolition. But some will need much more than that level of work. Setting the full demo at 12 or 15 would imply that every year, roughly 1.5% of the homes older than 30 years would be eligible for a full demo. Assuming the base of homes older than 30 years stays static as a result of renovation and demo, a 1.5% refresh rate would allow for a complete refresh of single family housing in Aspen every 96 years (30 years + 66 years for the full turnover of the >30 year housing stock), with an average life of 63 years. That seems like a pretty reasonable rate of full refresh. Technology and aesthetics change over time and city policy should also make sure to keep our housing stock vibrant.

There are very marginal benefits to setting demo levels at 6 versus 12 or 15. The new Affordable Housing fee calculations actually result in significant benefits from slightly more, rather than slightly less, demo activity. As a citizen, I am far more concerned by the decaying commercial properties in the core (e.g. Main Street Bakery) or
the interminable construction of core commercial properties (e.g. building across from Paradise and the new RH building) than I am about whether residential owners demo 6 or 12 homes. If we don't like interminable residential construction, we should do two things: 1) place a monthly nuisance fee on projects that take longer than a reasonable expected time and 2) improve through-put in the city for change orders. Very simple changes now take 6 to 12 months to approve. It is a significant impact on project speed and execution that impairs neighborhoods. If we could improve throughput where a simple change order to do something non-structural/non-additive to FAR takes 2 weeks versus 6 months, we could justify a nuisance fee when residential construction takes longer than a certain length of time per sq ft. That would help reduce construction impacts or effectively tax badly managed projects. But we need to improve throughput if we want to hold projects accountable for timing.

We lose very little by setting demos at 12 or 15 versus 6. The risks of going too low are material. We stand to gain much more from a slightly more generous level. It would be great to turn our attention to improving the rules around commercial development so less of the core sits either decaying or in never-ending construction. That is the biggest community impact from construction in Aspen.

Thanks for your consideration

Greg Goldfarb

Thank you for forwarding this invitation and the link to a portion of the proposed code language.

My schedule does not permit me to attend today’s Focus Group. Having said that, I see very little in the way of proposed language or policy in response to those attending past focus group meetings, so I am not sure attending such a meeting would be worth my time anyways. I consider these Focus Group’s and work sessions to be the public input equivalent of Green Washing – the City can claim they have provided community education and sought input, but at the end of the day, community input and concerns are disregarded.

Nonetheless, I offer some brief comments for Staff’s & the “publics” consideration. I request that my comments be distributed to those attending today’s Focus Group.

Demolition GMQS:

I remain deeply concerned about the idea of subjecting demolition to GMQS and I am greatly disturbed by the proposed mechanisms. As drafted, the annually permitted 6 units of single family demolition gives no consideration whatsoever to the size or age of the home. A 50 – 60 year old, 1,200 square foot ½ duplex unit is considered on equal footing to a 5,000/10,000/15,000 square foot 5/10/15 year old home. Size and age matter. A once in 50 years demolition and reconstruction of a small, old house is nowhere near as impactful as the demolition and redevelopment of relatively recently developed, large home. Any demolition GMQS allocation should consider the size and age of homes proposed for demolition.

Subjecting demolition to GMQS has very real impacts on the value of one’s older home that is ripe for redevelopment. If a prospective buyer does not have assurance that once purchased a house can be re-developed, they will pass on the purchase of a smaller, older home in favor of a vacant lot or a new, existing home. For the local home owner of relatively modest means that wishes to re-develop their older home, they cannot reasonably start to consider re-development, spending $100,000’s on planning/design of obtain financing if they cannot have reasonable assurance of being able to proceed.

As drafted, the process does not limit demolitions to 6 per year. As I understand it, demolition GMQS permits vest for 3 years, so the deep pocketed can and will make early application for demolition permit only to hold them
until they deem appropriate. Development slows down with economic cycles and speeds up with boom times –
despite limiting demolitions to 6 per year, some years there will be far less and in some years there could be as
many as 18.

Housing Mitigation:        A 7 times increase in Housing Mitigation Fees is stunning. I question the accuracy of the
yet-to-be produced Housing Generation Study. The FTE’s, employment and income created by a home provide the
funds necessary for such employees to be housed. Requiring 100% mitigation fees, RETT and employment income
is duplicative and unfair.

Deferral Agreement:       While the staff may have proposed ideas that remove the wild uncertainty of the cost of
a deferral agreement, a deferral does not recognize that, by definition, a home occupied by a qualified local
worker is housing mitigation. A qualified home owner should receive credit/recognition for providing housing
mitigation.

Thank you.

Mike Maple

From: Ben Anderson
Date: Monday, June 13, 2022 at 2:47 PM
To: Lauren Bullard, Anton Sponar
Subject: RE: Aspen Moratorium -

Hi Lauren and Anton –

If it is ok with you, I will include your email and this response in the comments for Council consideration.

1) I can look back over the ENR Index to see if there are any decreases – but to my knowledge even in the lowest
inflationary conditions there were generally at least a ½% increase year to year. FYI – The increase to Denver’s
index (as a single city) over the last year was nearly 17%. All things being equal though, if there was a decrease – I
think we would take it into account – because if that were the case, I bet we would have bigger problems on our
hands.

2) On the mitigation “depreciation” question for locals – I made a commitment to bring the specific question back
to Council in 2022, after the moratorium was lifted. Council, when we presented the topic early on, was a little
skeptical – and staff is concerned about our ability to manage the topic fairly across the many different types of
owners that we have in town. I will say, that we are recommending significantly reducing the O&M generation
rate (.103 FTE / 1000 sf) as estimated in the generation study down to something like 25% (roughly .025
FTE/1000) to accommodate for exactly what you are arguing – that there is significant variability across
households for the service and operation support that they receive.

Cheers, Ben

From: Lauren Bullard <
Sent: Monday, June 13, 2022 11:26 AM
To: Ben Anderson; Anton Sponar
Subject: Re: Aspen Moratorium -

Hi Ben,

Anton and I are not able to come to the meeting but had a few comments/questions.
Regarding the reevaluation of the Fee in Lieu FTE Rates – if the National Construction Cost Index has decreased, will that change also be applied for that year?

For the Residential Mitigation Deferral Agreement – there was discussion about removing the fee after a certain period of time, like 10+ years. Is that still being considered? If not, I’d like to ask that staff and council consider making just the construction mitigation portion accruing and having the O&M portion depreciating in value since O&M is generally taken care of by the homeowner if they are local and full-time.

Appreciate your time as always,
Lauren and Anton, owners of 820 E Cooper Ave.

Lauren Bullard

Ben and Garrett,

I am going to be out next week and won’t be able to join you. I do appreciate that Garrett sent over the language and I have spent quite a bit of time reading through everything. Thankfully, nothing has been a surprise yet, and do want to credit your team for the collaborative discussions that have taken place over the past few months.

Ryan Walterscheid
Partner, Architect

Dear Aspen City Council Members:

Per Mayor Torre’s request after my public comments this week, I am following up with a clear explanation of certain unintended consequences that I am confident will occur if and when you enact Ordinance 13. I believe there will also be others that I cannot yet foresee. I understand many of your actions are well-intentioned, but I believe they are often not fully thought-out, as evidenced by actions taken on the Yellow Brick child care situation, restaurants during the pandemic, improving traffic, etc. that have generated poor results and impacted our community negatively.

I will also highlight some of the insertions into the code language that may seem minor (relative to the more obvious limitations on demolitions) but are meaningful, costly, unfair, and in some cases counterintuitive. There are changes within that I believe are beneficial for our community and its sustainability, but I wish these were proposed without the negative influence of this moratorium.

UNINTENDED CONSEQUENCES OF ORDINANCE 13

1. **More intensive renovations** - If people are unable to secure a demolition allotment, they will be incentivized to do projects that fall below the 40% demolition threshold. These projects will become highly intensive and impactful – moreso than scrape and replace projects. If people can’t do what they want to do, they’re going to do the next best thing, and this is going to cause more impact on the community than the projects you’ve limited, thereby defeating the purpose.

2. **Sacrificing revenue and RETT** - The City will be self-limiting the amount of revenue it generates as a result of fees and exactions on development projects. It will also likely eventually impact the amount of RETT collected by limiting the high-value inventory that has been most in demand recently and has generated so much of the RETT in the last few years. This will impact the primary source of funding of our AH program – the very thing you are claiming we need more of.
3. **Creating speculative demand for demolitions** – By limiting the number of demolition allotments, homeowners are going to speculatively apply for them and see what happens. If they get one, their property will suddenly be worth more and will likely be sold to a developer to build a new home. You are actually going to incentivize people to apply for these, sell their properties, which will eventually be demolished, when they might not otherwise have been considering doing so.

4. **Increased Costs/Values of Housing** – The rising tide will float all ships and all free market housing will increase in value once you limit the supply of the product most in demand.

5. **Loss of Jobs and Economic Opportunities for RF Valley Residents** – Reduced construction activity will result in lost opportunity, just as it seems that we’re entering a national recession. Engineers, Architects, construction workers, City employees, etc will all experience less work opportunity.

**CODE CHANGES**

1. **Residential Development & Redevelopment Standards**
   a. **Requirements Section 5 Engineering** – What does increasing runoff requirements have to do with the reasons for this moratorium? We already have incredibly onerous civil engineering standards – how does this address your issues?
   b. **Appendix A - RESIDENTIAL DEMOLITION ALLOTMENT MIXED FUEL LOW CARBON APPENDIX**
      i. **R402.3.6 Maximum area.** – How is it appropriate that we are limiting the amount of vertical and horizontal fenestration only on residential free market development? But not AH, Commercial, etc. This is an unnecessary, unfair change that will transform residential architecture into buildings that resemble Brutalism more than Bauhaus.
      ii. **R403.13 Heating outside a building.** – Based on my conversations with mechanical engineers, I do not believe an electric snowmelt system sufficient and reliable enough to snowmelt a driveway currently exists.
      iii. **Solar readiness** – nowhere does it seem to say that the solar readiness provisions are inapplicable if you are proposing to actually install solar systems.
      iv. **SECTION 505 CLASS 2 IGNITION-RESISTANT CONSTRUCTION** – What does changing these provisions have to do with the reasons for this moratorium? Why is this what staff is working on at this time?

Thank you for your consideration of the above.

Bill Guth

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I’m a new member of P&Z, but am writing as a private citizen and property owner on the question of whether demolitions should be limited to a fixed number. I believe the current proposal is for six per year.

During P&Z’s June 6 meeting, I noted that the 2020 census listed Aspen’s inventory of structures at about 6200. I asked Ben Anderson whether this implied that the average building here would be expected to last about 1,000 years (6197/6=1033). I think he responded that the number of structures affected by the proposed quota would be lower, perhaps 1,500. I replied that a limit of six per year implies about a 250 year average lifespan, that my building is only 50 years old and already needs extensive repairs. Based on the number of repair trucks in town, I don’t think our situation is uncommon.

While Aspen is graced with many historic buildings, thousands of its dwellings date from post WWII waves of construction. And while the land under them has become more valuable, the stock itself is aging. By adopting a low and fixed quota, Council risks creating a new problem, as an increasing number of owners will be unable to
gain permission to replace their housing in a timely manner. The resulting backlog could result in a wave of demolitions if and when the City decides to ease this restriction.

My preferred approach to the obsolescence problem would be to filter permits for demolition through a few screens, such as historic significance, but otherwise let property owners decide whether to take an action. This method seemed to keep a general balance in the pace of demolition and rebuilding in my prior town, which faced these issues decades ago. If that's not the Aspen way, at least set the demolition quota high enough to accommodate the realities of its aging fleet of housing.

thanks,
Tom Gorman
I, Allison Pattillo, do solemnly swear that I am Publisher of, says: The Aspen Times, that
the same weekly newspaper printed, in whole or in part and published in the County of
Pitkin, State of Colorado, and has a general circulation therein; that said newspaper has
been published continuously and uninterruptedly in said County of Pitkin for a period of
more than fifty-two consecutive weeks next prior to the first publication of the annexed
legal notice or advertisement; that said newspaper has been admitted to the United
States mails as a periodical under the provisions of the Act of March 3, 1879, or any
amendments thereof, and that said newspaper is a weekly newspaper duly qualified for
publishing legal notices and advertisements within the meaning of the laws of the State of
Colorado.

That the annexed legal notice or advertisement was published in the regular and entire
issue of every number of said weekly newspaper for the period of 1 insertion; and that
the first publication of said notice was in the issue of said newspaper dated 2 Jun 2022 in
the issue of said newspaper.

Total cost for publication: $27.78

That said newspaper was regularly issued and circulated on those dates.

[Signature]
Publisher

Subscribed to and sworn to me this date, 06/02/2022

[Signature]
Notary Public, Pitkin County, Colorado

My commission expires: August 19, 2024

Ad: 1001 Westlake Blvd
130 S GALENA ST
ASPEN, Colorado 81611
9709205064
Exhibit K - Public Notice Affidavit

PROOF OF PUBLICATION

ASPEN TIMES

STATE OF COLORADO) SS
COUNTY OF PITKIN)

I, Allison Pattillo, do solemnly swear that I am Publisher of, says: The Aspen Times, that the same weekly newspaper printed, in whole or in part and published in the County of Pitkin, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Pitkin for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 2 Jun 2022 in the issue of said newspaper.

Total cost for publication: $23.88

That said newspaper was regularly issued and circulated on those dates.

Publisher

Subscribed to and sworn to me this date, 06/02/2022

Notary Public, Pitkin County, Colorado

My commission expires: August 19, 2024

Advertiser:
ASPEN (LEGAL) CITY OF
130 S GALENA ST
ASPEN, Colorado 81611
9709205064

Lori A McCauley
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 2024031D7
MY COMMISSION EXPIRES September 9th, 2024
ORDINANCE #14
SERIES OF 2022

AN ORDINANCE OF THE ASPEN CITY COUNCIL AMENDING CITY OF ASPEN LAND USE CODE SECTION 26.470.050 – CALCULATIONS TO ADOPT A REVISED AFFORDABLE HOUSING MITIGATION FEE-IN-LIEU RATE SCHEDULE.

WHEREAS, pursuant to chapter 26.470, Growth Management Quota System, of the City of Aspen Municipal Code, applicants may, under conditions specified by the Chapter, pay fees to satisfy requirements to provide affordable or employee housing; and,

WHEREAS, pursuant to prior resolutions and ordinances of the City, the City Council has historically established these fees, referred to in Chapter 26.470 as an affordable housing impact fee, affordable housing mitigation fees, and cash-in-lieu payments; and,

WHEREAS, in 2019 and 2020 Community Development Staff worked with consultants White and Smith Planning Law Group and TischlerBise in the drafting of the Affordable Housing Fee-in-Lieu Study, Phase I, a study that provided recommendations for improving the methodology in calculating and updating the Affordable Housing Fee-in-Lieu; and,

WHEREAS, The City elected to enact a new fee-in-lieu schedule and methodology for update utilizing calculations and recommendation provided in the Affordable Housing Fee-in-Lieu Study, Phase II, completed in April of 2021 by White and Smith Planning and Law Group and TischlerBise; and,

WHEREAS, in Ordinance #010, Series of 2021, City Council adopted a new Fee-in-Lieu schedule reflective of the recommendation presented in the Affordable Housing Fee-in-Lieu Study, Phase II; and,

WHEREAS, Land Use Code Section 26.470.050(E), Calculations - Employee housing fee-in-lieu payment; prescribes that the Fee-In-Lieu rates shall be updated every five years and adopted by city council ordinance, and that during intermediate years, the City may choose to update the fee-in-lieu schedule, by ordinance, based on the change in the Engineering News Record National Construction Cost Index; and,

WHEREAS, due to the declaration of a moratorium on Residential Development, first through Ordinance # 27, Series of 2021, and confirmed by Ordinance # 06, Series of 2022, staff did not present a proposed Fee-in-Lieu update to City Council in January of 2022 as directed by 26.470.050.E; and,

WHEREAS, Policy Resolution #043, Series of 2022, approved by Council on March 22, 2022, provided direction to staff to pursue amendments of the Land Use Code to “support the development of more affordable housing in Aspen” and “Align land use review processes with
community development needs, including affordable housing, and the mitigation of the community impacts from free-market development” among other objectives; and,

WHEREAS, The City is electing to update the fee-in-lieu schedule based on the change in the Engineering News Record, National Construction Cost Index, which shows a 8.47% increase from the time of the fee-in-lieu adoption in May of 2021 through May of 2022; and

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO THAT:

Section 1: Adoption of updated Fee-in-Lieu rates.
Section 26.470.050.E shall be rescinded and readopted as follows:

26.470.050. Calculations
E. Employee housing fee-in-lieu payment. Whenever a project provides employee housing via a fee-in-lieu payment, in part or in total, the amount of the payment shall be based upon the following (fee-in-lieu is only allowed for Categories 1-4, Category 5 is included for any necessary conversions between affordable housing unit types or for the purpose of conversions in the value of Certificates of Affordable Housing Credits):

Fee-in-Lieu (per FTE):

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee-in-Lieu</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$442,616</td>
</tr>
<tr>
<td>2</td>
<td>$408,362</td>
</tr>
<tr>
<td>3</td>
<td>$374,971</td>
</tr>
<tr>
<td>4</td>
<td>$328,533</td>
</tr>
<tr>
<td>5</td>
<td>$271,582</td>
</tr>
</tbody>
</table>

Payment shall be calculated on a full-time-equivalent employee (FTE) basis according to the Affordable Housing Category designation required by this Title. Unless otherwise stated in this Title or in a Development Order, Fee-in-Lieu payments shall be collected by the City of Aspen Building Department prior to and as a condition of Building Permit issuance.

The Fee-In-Lieu rates shall be updated every five years and adopted by City Council ordinance. This 5-year update shall evaluate and include cost analysis of new private and public sector affordable housing projects that have been completed or are otherwise appropriate since the previous update. During the intermediate years, Community Development staff shall propose to City Council an annual update (in January) to the Fee-in-Lieu schedule via Ordinance, utilizing the most recent National Construction Cost Index provided by the Engineering News Record. If the annual increase is approved, updated Fee-in-Lieu figures shall be rounded to the nearest dollar. The annual update proposed in the intermediate years does not require a Policy Resolution prior to First and Second Reading.
The following methodology (as depicted in a comprehensive report conducted by TischlerBise, Affordable Housing Fee-in-Lieu Study, Phase II in Spring of 2021) was used to determine the above Fee-in-Lieu schedule:

1) Utilizing recent public sector, private sector, and public private partnership affordable housing projects, staff and the consultant team identified actual land and construction (hard and soft) costs for a number of recent projects and land purchases.

2) Costs for both land and construction were analyzed by project to the square foot of net livable development and averaged across the projects. Using the Code determined calculation of 400 square feet per full time equivalent (FTE) employee, a total cost of constructing affordable housing per FTE was identified.

3) Utilizing the Aspen Pitkin County Housing Authority (APCHA) Guidelines, established sales and rental rates by Category and bedroom count were used in a calculation to identify the revenue per FTE. Two important assumptions were included for the rental revenue stream: a) revenue (rental income) was calculated over a 15-year period with a 2% annual increase in the rental rate; and b) rental revenue was reduced by 50% to acknowledge common maintenance and operations costs. Sales and Rental Revenue were then averaged per FTE.

4) The per FTE revenue amount for each Category (identified in #3 above) was subtracted from the total development cost per FTE (identified in #2 above). The remainder of each calculation subtracting the Category revenue from the total cost per FTE results in the Category Fee-in-Lieu schedule above.

Section 2:
Any scrivener’s errors contained in the code amendments herein, including but not limited to mislabeled subsections or titles, may be corrected administratively following adoption of the Ordinance.

Section 3:
This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

Section 4:
If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.
Section 5:
A public hearing on this ordinance was held on the 28th day of June, 2022, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED AND READ, as provided by law, by the City Council of the City of Aspen on the 14th day of June 2022.

Attest:

_____________________________ ____________________________
Nicole Henning, City Clerk                                           Torre, Mayor

FINALLY, adopted, passed and approved this 28th day of June 2022.

Attest:

_____________________________ ____________________________
Nicole Henning, City Clerk                                           Torre, Mayor

Approved as to form:

______________________________
James R. True, City Attorney

FINALLY, adopted, passed and approved this ___ day of __________, 2022.

______________________________
Torre, Mayor

ATTEST:                      APPROVED AS TO FORM:

______________________________
Nicole Henning, City Clerk                                           James R True, City Attorney