

**GRAND COUNTY, UTAH**  
**ORDINANCE NO. 687 (2023)**

**AN ORDINANCE AMENDING , GRAND COUNTY LAND USE CODE (LUC)  
SECTION 4.7, HIGH DENSITY HOUSING OVERLAY (HDHO) & THE  
HDHO RULES AND REGULATIONS TO IMPROVE IMPLEMENTATION  
OF THE HDHO PROGRAM**

**WHEREAS**, Utah Code § 17-27a-102 enables a county to enact all ordinances, resolutions, and rules and various forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county;

**WHEREAS**, the previously named Grand County Council adopted the Grand County Land Use Code (“LUC”) on January 4, 1999, with Ordinance No. 299, as amended, for the purpose of regulating land use, subdivision, and development in Grand County in accordance with the General Plan;

**WHEREAS**, from time to time the County adopts ordinances to modify its LUC and zoning map to improve the quality and order of land development and align the LUC with changing community conditions, public review noticing procedures, state law, contemporary planning concepts, and streamlining land use reviews and permits;

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

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

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

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

**WHEREAS**, the Grand County Commission adopted Rules and Regulations for High Density Housing Overlay Developments on March 2, 2021 to implement LUC Section 4.7, help guide HASU

when approving HDHO applications, and build local confidence in administration of the HDHO program (the “Rules and Regulations”);

**WHEREAS**, as the HDHO program is a pilot program, the County is actively monitoring its successes and shortcomings, and from time to time must revise aspects of the program in order to improve its goal of providing housing to local workforce;

**WHEREAS**, Grand County wishes to amend the Rules to provide specific exemptions to the ownership requirement of HDHO multifamily developments;

**WHEREAS**, Grand County wishes to amend the Rules to improve the notification of change in ownership and occupancy of HDHO units, as well as notification of an HDHO unit being listed on the real estate market;

**WHEREAS**, Grand County wishes to amend the Rules to clarify the occupancy requirement of Accessory Dwelling Units located on HDHO deed restricted properties;

**WHEREAS**, Grand County wishes to amend the Rules to include a requirement that the sale price of HDHO units is reported to the County for the purposes of tracking the HDHO program’s success in providing attainable local workforce housing.

**WHEREAS**, Grand County wishes to amend LUC Section 4.7 to broaden the definition of an Actively Employed Household and clarify terms within the definitions section;

**WHEREAS**, on August 28, 2023, after a public hearing, the Planning Commission forwarded a favorable recommendation to amend Section 4.7 of the LUC & the HDHO Rules & Regulations with the change to strike the language pertaining to the income cap for self-employed individuals;

**WHEREAS**, on October 17, 2023, the County Commission held a public hearing to solicit public comment regarding the proposed amendments; and

**WHEREAS**, the Commission has determined it is in the best interest of the public to amend the LUC and HDHO Rules and & Regulations to improve the program;

**NOW, THEREFORE, BE IT ORDAINED** that the Grand County Commission does hereby amend the Grand County Land Use Code as follows:

*See Exhibit A*

**APPROVED** by Grand County Commission in a regular public meeting on November 7, 2023 by the following vote:

*Those voting aye:*     Clapper, Hedin, McGann, Walker

*Those voting nay:*     Winfield, McCurdy

*Those abstained:*     Hadler

**Grand County Commission:**



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Jacques Hadler, Chair

**ATTEST:**



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Gabriel Woytek, Clerk/Auditor



The seal is circular with a double border. The outer border contains the text "COUNTY OF GRAND" at the top and "STATE OF UTAH" at the bottom. The inner border contains the text "CLERK/AUDITOR". In the center of the seal is a stylized graphic of a mountain range.

## EXHIBIT A

### 4.7 High Density Housing Overlay Districts

#### 4.7.1 Purpose

The High Density Housing Overlay Districts ("HDHO Districts") are designed to provide for modification of the otherwise applicable development standards of the underlying base district as specified in Articles 2 and 5, in order to accomplish one or more of the following purposes:

- A. Facilitating the provision of new housing units used for primary residential occupancy by actively employed households;
- B. Achieving the goals of the housing element of the County's General Plan;
- C. Implementing the policies and goals of the housing element of the County's General Plan;
- D. Encouraging the development of new high quality housing units by assisting both the public and private sector in making the provision of these units economically viable; and
- E. Encouraging the provision of primary residential housing through the combination of multiple-family and single-family residential zoning districts within the County where the residential housing projects are determined to be feasible and are consistent with the County's General Plan.

[Ord. 591, 2019.]

#### 4.7.2 Applicability

The regulations set forth in this section may be applied to real property located within the HDHO boundaries, as shown in [Exhibit A](#) attached to the ordinance codified in this section, upon application to and approval by the County Commission pursuant to the provisions herein. Upon approval, the HDHO District zoning, development agreement, and master plan shall control development of the property.

[Ord. 591, 2019.]

#### 4.7.3 Definitions

A. "Active employment household" or "actively employed household" means a household with at least one adult who meets one of the following criteria; provided, however, where there are unrelated individuals living together in one household, at least 50 percent of all the adults comprising the household shall meet one of the following criteria:

1. A full-time (aggregate of 30 hours of employment per week) employee of an entity or entities located within the 84532 zip code; or
2. An owner or owner's representative of a business or entity with a primary place of business within Grand County; or
3. A full-time (aggregate of 30 hours of employment per week for nine months out of each calendar year) worker who is self-employed or works out of their home must provide their entire

list of clients/workload so that it can be verified that a minimum of 75 percent of their work/clients are based within Grand County, OR provide proof of at least five (5) years of Residency within the 84532 zip code and verification of annual gross household income being less than 160% of the Area Median Income (AMI) for Grand County, per current HUD calculation.

4. A person who is unable to work or does not have a work history required under subsections A.1 through 3 of this section due to a disability; or

5. A retiree with a work history required under subsections A.1 through 3 of this section for the five years prior to retirement.

B. "Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks approval of an application for an HDHO development.

C. "Development agreement" means a development agreement and deed restriction, which is a contract between Grand County and a developer or subdivider, which is recorded as an encumbrance upon the property to ensure compliance hereunder. A development agreement shall run with the land and be binding upon the parties and their successors in title, as provided by its terms.

D. "High Density Housing Overlay District" or "HDHO District" means a zoning district applied to the property that benefits from a higher density than that allowed under the existing underlying zoning designation, which attendant increased density encourages the provision of new housing units used for primary residential occupancy as further described in this section.

E. "High Density Housing Overlay development" or "HDHO development" means a subdivision or site plan approved within an HDHO District in which at least 80 percent of the lots or units developed on the property are restricted for primary residential housing occupied by actively employed households.

F. "High Density Housing Overlay lot" or "HDHO lot" is a lot restricted for primary residential housing occupied by actively employed households that otherwise meet the requirements of this section.

G. "HDHO lots or units" or "HDHO lots and units" shall refer to HDHO lots and/or HDHO units.

H. "High Density Housing Overlay unit" or "HDHO unit" is a dwelling unit restricted for primary residential housing occupied by actively employed households that otherwise meet the requirements of this section.

I. "Household" means one adult living alone, two or more adults related to each other by blood, marriage, or another legally recognized relationship, or a maximum of five unrelated adults residing in the same residence.

J. "Master plan" means a planning document which guides development of the property based on the County's planning goals, existing development, and physical characteristics of the particular HDHO development. A master plan shall be recorded, run with the land, and be binding upon the parties and their successors in title, as provided by its terms.

K. "Primary resident" means an adult that meets the "primary residential occupancy" requirement.

L. "Primary residential housing" or "primary residential development" shall have the same meaning as "high density housing development," which terms may be used interchangeably throughout this section.

M. "Primary residential occupancy" means the owner of record occupying the dwelling unit for a minimum of nine months out of any 12-month period or an occupant of the dwelling unit through a lease term no shorter than six months out of any 12-month period.

N. "Property" means a specific parcel of real property upon which an HDHO District is applied.

O. "Residency" means living in the 84532 zip code without gaps of more than 3 months at a time, and having proof of one's place of residence in the 84532 zip code via one of the following pieces of documentation:

- Rental lease agreement for a property within the 84532 zip code
- Income tax return or W-2 with name and address demonstrating residence in the 84532 zip code
- Paystub or letter from employer of a business located within the 84532 zip code

P. "Subdivider" means any person creating a subdivision and offering lots for sale to the public.

[Ord. 591, 2019.]

#### **4.7.6 Assurance of Primary Residential Housing and Occupancy**

A. **General.** HDHO lots and units shall be used for primary residential housing for actively employed households in perpetuity.

B. **Deed Restriction.** The following deed restriction shall be integrated into the development agreement, the master plan, each final plat or site plan, and each deed of conveyance:

The Property shall be used for Primary Residential Housing for Actively Employed Households as required by Grand County Land Use Code, Section 4.7, High Density Housing Overlay Districts, in perpetuity. As such, upon sale of any HDHO unit, the Title Company shall provide a Notice of Sale to HASU and the County for the purpose of verifying the buyer is an Actively Employed Household.

The Property is further subject to a Development Agreement and Master Plan recorded against the Property in the real property records of Grand County, Utah.

Grand County reserves the right to revoke, deny or suspend any permit, including a land development permit, conditional use permit, building permit, certificate of occupancy, or discretionary approval upon a violation or breach of this Deed Restriction by a record owner of any HDHO Lot or Unit in Grand County. [Ord. 615, 2020.]

C. **Enforcement.** In addition to other remedies preserved herein, Grand County reserves the right to revoke, deny or suspend any permit, including a land development permit, conditional use permit, building permit, certificate of occupancy, or discretionary approval upon a violation or breach of this section by a record owner of any HDHO lot or unit in Grand County.

[Ord. 591, 2019.]

#### **4.7.7 Rules and Regulations**

**AMENDED AND RESTATED  
RULES and REGULATIONS  
for  
HIGH DENSITY HOUSING OVERLAY  
DEVELOPMENTS  
*Effective November 7, 2023***

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

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

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

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

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

**WHEREAS**, as the HDHO program is a pilot program, the County is actively monitoring its successes and shortcomings, and from time to time must revise aspects of the program in order to improve its goal of providing housing to local workforce;

**WHEREAS**, Grand County wishes to amend the Rules to provide specific exemptions to the ownership requirement of HDHO multifamily developments;

**WHEREAS**, Grand County wishes to amend the Rules to improve the notification of change in ownership and occupancy of HDHO units, as well as notification of an HDHO unit being listed on the real estate market;

**WHEREAS**, Grand County wishes to amend the Rules to clarify the occupancy requirement of Accessory Dwelling Units located on HDHO deed restricted properties;

**WHEREAS**, Grand County wishes to amend the Rules to include a requirement that the sale price of HDHO units is reported to the County for the purposes of tracking the HDHO

program's success in providing attainable local workforce housing.

## SECTION 1. PURPOSE

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

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

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

## SECTION 2. QUALIFIED HOUSEHOLD

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

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

2. *Ownership exceptions*. The owner(s) and managers of an HDHO multifamily apartment development, in which units are rented and not sold individually, is/are exempt from being a Qualified Household. Developers of HDHO housing are exempt from being a qualified household, such that an HDHO development project may be sold in its entirety to a non-Qualified Household who intends to build out the project, while the sale of individual lots and units shall remain restricted to Qualified Households.

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

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

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

6. *Accessory Dwelling Units.* Where an ADU exists in an HDHO district, that unit shall be occupied by Qualified Households or family members of Qualified Households.

7. *Foreclosure Exemption.* A sale prohibited by LUC Section 4.7.11(a) does not include a foreclosure sale or related foreclosure process initiated by a financial institution authorized and regulated under the laws of this state, another state, or the United States (“Financial Institution”), specifically including with limitation acquisition of real property by a Financial Institution via: a) redemption in a trustee sale conducted in accordance with Utah Code §§ 57-1-23 through 57-1-32, b) judicial foreclosure, or c) a deed in lieu of foreclosure (any of the foregoing, a “Foreclosure Sale”). Accordingly, a Financial Institution that obtains title to an HDHO Lot or Unit by Foreclosure Sale need not be a Qualified Household or Actively Employed Household; provided, however, that: 1) if a Financial Institution obtains title to an HDHO Lot and/or Unit, the occupancy of the HDHO Lot and/or Unit shall be limited to Qualified Households, and any subsequent sale of the HDHO Property shall be in accordance with LUC Section 4.7 and these Rules and Regulations; and 2) any other person or entity that obtains title to an HDHO Lot or Unit by Foreclosure Sale shall be a Qualified Household under LUC Section 4.7.3 and shall within thirty (30) days following acquisition of an HDHO Lot and/or Unit submit evidence to HASU demonstrating that it is a Qualified Household or is leasing the HDHO Property to a Qualified Household. This exemption shall not apply to private lenders that are not subject to the jurisdiction of Title 7, Utah Code (Financial Institutions Act) or other similar state or federal laws.

### SECTION 3. APPLICATION PROCEDURE

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

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

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

#### 1. *Lapses of Employment.*

- i. Temporary lapses of employment of three (3) months or less do not require notification to HASU and shall not affect an owner or occupant’s status as a Qualified Household.
- ii. Lapses of employment lasting more than three (3) months shall be

reported to HASU by the owner or occupant and require HASU approval to ensure continuing eligibility of the occupant.

*2. Leaves of Absence.*

- i. Temporary leaves of absence of three (3) months or less do not require notification to HASU and shall not affect an owner or occupant's status as a Qualified Household.
- ii. Extraordinary leaves of absence for specialized education, caregiving of a family member, religious or charitable work, or military service, lasting not more than two (2) years, where the owner or occupant can demonstrate a commitment to returning to Grand County and otherwise complying with LUC Section 4.7.3(M), may be granted by HASU in advance. In the event of approval, the owner may rent the HDHO Lot or Unit to a Qualified Household during the extraordinary leave of absence.

D. Renewal. HASU will contact each owner and occupant on an annual basis to re-qualify the Household. Each owner and occupant shall submit a written affidavit that attests to their qualifications and any additional requested documentation required by HASU that proves the same.

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

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

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

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

**SECTION 4. SALE OF UNITS**

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

B. Notification upon Listing and Sale. HDHO developer or owner shall notify the County and HASU when an HDHO Lot or Unit is listed for sale and subsequently when it goes under contract. The title company shall provide a Notice of Sale to HASU and the County upon sale of HDHO units, per Section 4.7.6(B) Deed Restriction for the purposes of verifying the potential new owner is a Qualified Household.

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

D. Disclosure of Sale Price. Developer or owner of an HDHO lot or unit, shall disclose the final sale price of an HDHO lot or unit to the County within 30 days of the closing date.

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

## **SECTION 5. APPEAL AND ENFORCEMENT**

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

B. Appeal. A person adversely affected by a denial or revocation of the Grand County Planning and Zoning Director may appeal such Final Decision within thirty (30) days of the County's written decision pursuant to the process set forth in Chapter 1.16 of Grand County's General Ordinances.

C. Violation, Defined. Any default under LUC Section 4.7, the Deed Restrictions recorded against the HDHO Development, or these Rules and Regulations, including fraud or misrepresentation by an Owner of an HDHO Lot or Unit, shall constitute a violation of County Ordinance.

D. Investigation and Enforcement. Grand County shall oversee enforcement of LUC Section 4.7 and these Rules and Regulations. Possible violations of the same shall be investigated and enforced under Chapter 1.16 of the General Grand County Ordinances.

E. Grand County Remedies. An Owner shall cure a Violation or shall sell the HDHO Lot or Unit to a Qualified Household.

ADOPTED by the Grand County Commission on November 7, 2023 in open session of a public meeting.

**GRAND COUNTY COMMISSION**



Jacques Hadler, Chair

ATTEST:



Gabriel Woytek, Clerk/Auditor