

ORDINANCE NO. 148, 2017  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING VARIOUS PROVISIONS OF THE CODE OF THE CITY OF  
FORT COLLINS AND THE LAND USE CODE TO ALLOW FOR THE  
DISCRETIONARY WAIVER OF CITY FEES ON ADDITIONAL AFFORDABLE  
HOUSING PROJECTS TO BE CONSTRUCTED IN THE CITY

WHEREAS, Housing Catalyst (“HC”), formerly the Fort Collins Housing Authority, was formed by the City Council in 1970 pursuant to the authority contained in Section 29-4-101, et seq. of the Colorado Revised Statutes, for the purpose of providing affordable, safe and sanitary housing in the City that is within the means of families of low or moderate income; and

WHEREAS, by adoption of Ordinance No. 065, 1999, the City Council exempted from the imposition of the City’s capital improvement expansion fees the land development projects of housing authorities formed pursuant to the provisions of Section 29-4-101, et seq., and specified various other City fees from which such projects are also to be exempted; and

WHEREAS, the financial impact of such fee waivers on the City can be substantial, depending upon the size of the project that is exempted, and whether the lost fee revenues need to be replaced by the City; and

WHEREAS, on March 19, 2013, the City Council adopted Ordinance No. 037, 2013 (the “2013 Ordinance”), which made amendments to the City Code and Land Use Code limiting the types of projects for which HC could request fee waivers, and specifying that those waivers are to be granted at the discretion of City Council upon a determination that proposed waivers will not jeopardize the financial interests of the City or the timely construction of capital improvements to be funded by the fees; and

WHEREAS, the 2013 Ordinance also authorized and directed the Mayor to enter into an intergovernmental agreement between the City and HC documenting HC’s intent to limit future fee waiver applications to affordable housing projects that meet the criteria established by such Ordinance (the “Intergovernmental Agreement”); and

WHEREAS, the Intergovernmental Agreement was executed on July 3, 2013; and

WHEREAS, the City Code currently provides that the City Council can waive, by ordinance, fees that would otherwise be imposed for an affordable housing project wholly or partially owned by a housing authority only if the City Council determines that: (1) the proposed project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development (HUD), or households with an annual income that does not exceed 30% of the area median income (AMI) for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by HUD; and (2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought; and

WHEREAS, the general categories of fees that the City Council can consider waiving include capital expansion fees, development review fees and building permit fees; and

WHEREAS, the related City Code provisions are based on the recognition that households earning less than 30% AMI cannot afford market rate housing in Fort Collins, and that developers need public subsidies to produce housing that residents in this demographic can afford; and

WHEREAS, the City wishes to provide an incentive for all developers to provide units affordable to those making less than 30% AMI by amending the City Code and Land Use Code to allow all developers of units targeting that income bracket to request fee waivers for the affordable portion of their projects; and

WHEREAS, a developer would be required to request such waivers prior to the City issuing any certificates of occupancy for a project; and

WHEREAS, whether to grant a fee waiver would still be in the discretion of the City Council and subject to a finding that granting the request will not jeopardize the City's financial interests or timely construction of capital improvements; and

WHEREAS, the City Council believes it is in the best interests of the City to amend the City Code and Land Use Code accordingly.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS AS FOLLOWS:

Section 1. That the City Council hereby makes and adopts the determinations and findings outlined in the recitals set forth above.

Section 2. That Section 7.5-19(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-19. Imposition, computation and collection of fees.**

...

(b) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Article for an affordable housing project if the City Council, in its sole discretion, determines that:

- (1) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and

(2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Section 3. That Section 7.5-48(e) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-48. Land dedication or in-lieu fees imposed.**

...

(e) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Article for an affordable housing project if the City Council, in its sole discretion, determines that:

(1) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and

(2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Section 4. That Section 7.5-71(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-71. Neighborhood parkland capital expansion fee.**

...

(c) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Article for an affordable housing project if the City Council, in its sole discretion, determines that:

(1) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and

(2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Section 5. That Section 10-28(h) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-28 Appeals/variance procedure.**

...  
(h) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Article for an affordable housing project if the City Council, in its sole discretion, determines that:

(1) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and

(2) the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Section 6. That Section 2.2.3 (D)(3) of the Land Use Code of the City of Fort Collins is hereby amended to read as follows:

### Sec. 2.2.3 Step 3: Development Application Submittal

...

(D) *Development Review Fees.*

...

- (3) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Chapter for an affordable housing project if the City Council, in its sole discretion, determines that:
- (a) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and
  - (b) the proposed waiver, if approved by the City Council, will not jeopardize the financial interests of the City.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Section 7. That Section 2.13.3(E) of the Land Use Code of the City of Fort Collins is hereby amended to read as follows:

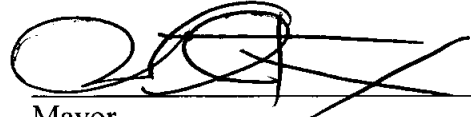
#### 2.13.3 Application

...


- (E) Notwithstanding the foregoing, the City Council may, by ordinance, waive the imposition of any fee imposed by the provisions of this Chapter for an affordable housing project if the City Council, in its sole discretion, determines that:
- (1) the affordable housing project is intended to house homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or households with an annual income that does not exceed thirty (30) percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development; and
  - (2) the proposed waiver, if approved by the City Council, will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which a waiver is sought.

Any waiver of fees hereunder must be applied for in accordance with City application requirements prior to the City's issuance of any certificates of occupancy for the project that is the subject of the waiver request.

Introduced, considered favorably on first reading, and ordered published this 7th day of November, A.D. 2017, and to be presented for final passage on the 21st day of November, A.D. 2017.

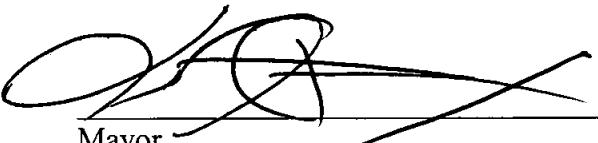
  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



Passed and adopted on final reading on the 21st day of November, A.D. 2017.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

