

RESOLUTION 94-167
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING ADMINISTRATIVE REGULATIONS FOR THE REBATE OF
IMPACT FEES FOR AFFORDABLE HOUSING

WHEREAS, on October 4, 1994, the City Council passed on second reading Ordinance No. 145, 1994, amending Chapter 5 of the City Code so as to permit the rebate of certain impact fees for affordable housing units; and

WHEREAS, Section 5-356 of the City Code, as approved by Ordinance No. 145, 1994, provides that the administrative regulations developed by the City Manager for the rebate of said impact fees shall be approved by the City Council by resolution; and

WHEREAS, the City Manager and other members of City staff, in consultation with the Affordable Housing Board, have developed such proposed regulations; and

WHEREAS, the City Manager and the Affordable Housing Board have recommended that the said regulations be adopted by the City Council; and

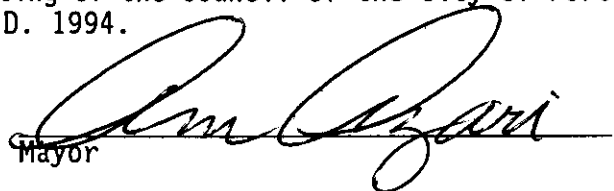
WHEREAS, the City Council has reviewed the proposed regulations and wish to adopt the same.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the "City of Fort Collins Development Impact Fee Rebate Program Regulations for Affordable Housing," attached hereto as Exhibit "A" and incorporated herein by this reference, are hereby adopted by the City Council to be used by City staff in reviewing and approving the rebate of certain impact fees for affordable housing units as defined in Section 5-357 of the City Code.

Section 2. That this Resolution shall take effect on October 14, 1994.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 4th day of October, A.D. 1994.


Mayor

ATTEST:

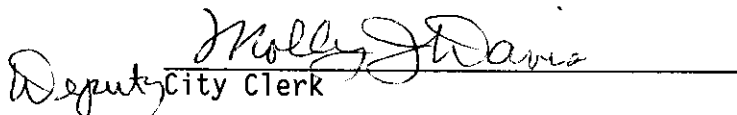

Deputy City Clerk

EXHIBIT A

CITY OF FORT COLLINS
DEVELOPMENT IMPACT FEE REBATE PROGRAM REGULATIONS
FOR AFFORDABLE HOUSING

I. BACKGROUND AND PURPOSE

This document outlines the provisions and processes by which applicants can request a partial rebate of development impact fees paid for units which are: (1) Rent restricted at levels 60% or less of the Area Median Income for Fort Collins (based on data provided by HUD for Larimer County) and occupied by residents who earn 80% or less of the Area Median Income for Fort Collins; or (2) Owner occupied by residents who earn 80% or less of the Area Median Income for Fort Collins who are paying no more than 38% of their monthly gross income for Principal, Interest, Taxes, and Insurance (PITI). The Development Impact Fee Rebate Program exists for the purpose of stimulating the private, public, and non-profit development of affordable housing.

II. ISSUING ENTITY

The Fort Collins Planning Department administers the Development Impact Fee Rebate Program. All applications must be submitted to the Fort Collins Planning Department.

III. ELIGIBILITY

A. Eligible Applicants

Nonprofit organizations, private developers, individuals, the Fort Collins Housing Authority, neighborhood based groups, and public/private partnerships are eligible to receive a Development Impact Fee Rebate under this program.

B. Eligible Projects

Eligible projects are defined as "the total number of units in a P.U.D., subdivision or minor subdivision." However, Development Impact Fee Rebates are applicable only to the portions of the "project" that are determined by the Planning Department to be affordable as defined in Sections IV(D) and IV(E) of this document. Rebates are only applicable to "newly" constructed affordable units which were issued building permits on or after August 17, 1994. (The adoption of Resolution 94-134)

C. Eligible Fees

Fees eligible for rebate are limited to the following:

- Water Plant Investment Fee
- Water Rights Acquisition Fee
- Sewer Plant Investment Fee
- Storm Drainage Fee
- Street Oversizing Fee
- Parkland Fee

IV. PROGRAM REQUIREMENTS

- A. All units must be located within the City limits of Fort Collins unless otherwise authorized by the City Council.
- B. The maximum rebate per unit shall not exceed the amount paid for eligible fees (see Section III(C)) for the unit.
- C. Where eligible fees (see Section III(C)) were paid using Federal or State program funds administered by the City of Fort Collins, any rebate(s) issued by the City of Fort Collins will be returned to the funding source unless otherwise authorized by the funding source.
- D. For rental projects:
 - (1) Rent restriction. For a unit to qualify as a low-income unit, gross rent per month may not exceed the following rent schedule. Said rent schedule is determined by the Director of Planning upon receipt of the annual establishment by HUD of the Area Median Income for Fort Collins.

GROSS RENTS BY PERCENTAGE OF AREA MEDIAN INCOME

	<u>30%</u>	<u>35%</u>	<u>40%</u>	<u>45%</u>	<u>50%</u>	<u>55%</u>	<u>60%</u>
0 BR Unit	\$233	\$271	\$310	\$348	\$386	\$425	\$464
1 BR Unit	265	310	354	398	443	486	530
2 BR Unit	299	348	399	448	498	548	596
3 BR Unit	358	418	496	538	596	656	715
4 BR Unit	384	449	514	576	641	705	769
5 BR Unit	<u>438</u>	<u>510</u>	<u>584</u>	<u>656</u>	<u>729</u>	<u>803</u>	<u>875</u>
Maximum Rebate Per Unit	\$4200	\$3600	\$3000	\$2400	\$1800	\$1200	\$600

- (2) Gross rent is the sum of 1) all payment by the tenant to the owner for rent, water, sewer, garbage, gas and/or electric, and 2) federal, state, and local rental assistance payments (such as Section 8 payments) made on behalf of the tenant. If the tenant pays utilities directly, the maximum rent that can be paid to the landlord is reduced by a utility allowance determined by the Fort Collins Housing Authority in accordance with rules under Section 8 of the U.S. Housing Act of 1937 ("Section 8").
- (3) The minimum low-income use compliance period for rental projects is ten (10) years from the date the rebate is issued. The City will require the execution of deed restrictions on the unit or project to assure the low-income benefit of the rebate program. If the gross rent on any of the "affordable" units exceeds the rent schedule in effect, the following repayment schedule will apply:

<u>Year</u>	<u>% Of Total Rebate Repaid</u>
0-5	100%
6	80%
7	60%
8	40%
9	20%
10	0%

E. For homeownership projects:

- (1) All units designated as "affordable" must become the principal residence of an owner whose family qualifies as a low-income family (80% or less of Area Median Income) at the time of purchase. The following schedule is based upon the Area Median Income of \$44,200:

Household Size	PERCENTAGE OF AREA MEDIAN INCOME				
	40%	50%	60%	70%	80%
1 Person	\$12,400	\$15,450	\$18,550	\$21,650	\$24,750
2 People	14,150	17,700	21,200	24,750	28,300
3 People	15,950	19,900	23,850	27,850	31,800
4 People	17,700	22,100	26,500	30,950	35,350
5 People	19,850	23,850	28,600	33,450	38,200
6 People	20,550	25,650	30,750	35,900	41,000
7 People	21,950	27,400	32,850	38,400	43,850
8 People	<u>23,350</u>	<u>29,150</u>	<u>35,000</u>	<u>40,850</u>	<u>46,650</u>
Maximum Rebate Per Unit	\$3000	\$2400	\$1800	\$1200	\$600

- (2) Total monthly payments for Principal, Interest, Taxes, and Insurance (PITI) shall not exceed 38% of the gross monthly household income.
- (3) The minimum low-income use compliance period for homeownership projects is five (5) years from the date the rebate is issued. All units designated as "affordable" must become the principal residence of an owner whose family qualifies as a low-income family (80% or less of Area Median Income) at the time of purchase and must remain the principal residence for the duration of the five (5) year low-income use compliance period. The City will require the execution of deed restrictions on the unit or project to assure the low-income benefit of the rebate program. If the project unit is sold within the five (5) year compliance period, the following repayment schedule will apply:

<u>Year</u>	<u>% Of Total Rebate Repaid</u>
0	100%
1	80%
2	60%
3	40%
4	20%
5	0%

F. The minimum square footage allowed for the number of bedrooms per unit are as follows:

0 BR Unit	350 S.F.
1 BR Unit	500 S.F.
2 BR Unit	650 S.F.
3 BR Unit	800 S.F.
4 BR Unit	950 S.F.
5 BR Unit	1100 S.F.

V. APPLICATION REQUIREMENTS

A. **For rental projects.** The applicant shall submit to the Planning Department:

- (1) An application form providing the following information:
 - a. Name of applicant;
 - b. Address of applicant;
 - c. Project location by legal description and surveyed site plan;
 - d. Total number of units in project;
 - e. Total number of "affordable" units in project (i.e. number of units for which rebate is requested);

- (2) A list of each rent restricted unit by bedroom size and "gross rent" charged.
 - (3) A signed affidavit which commits the number of units for which Development Impact Fee Rebate is requested to the low-income occupancy requirements outlined in Section IV(D).
 - (4) A Certificate of Occupancy for each unit or building in the project.
 - (5) Verification that the minimum square footage requirement for each unit is met (A copy of the building permit).
 - (6) Description of all sources and uses of all funds.
- B. For homeownership projects. The applicant shall submit to the Planning Department:
- (1) An application form providing the following information:
 - a. Name of applicant;
 - b. Address of applicant;
 - c. Project location by legal description and surveyed site plan;
 - d. Total number of units in project;
 - e. Total number of "affordable" units in project (i.e. number of units for which rebate is requested);
 - (2) A Certificate of Occupancy for each unit.
 - (3) Verification that the minimum square footage requirement for each unit is met (A copy of the building permit).
 - (4) Description of all sources and uses of all funds.
 - (5) Income certification of the purchaser (must be 80% or less of Area Median Income).
 - (6) An acquisition or purchase contract of the income qualified purchaser.
 - (7) Verification that the monthly Principal, Interest, Taxes, and Insurance (PITI) payment of the purchaser does not exceed 38% of gross monthly income.

- (8) An affidavit signed by the initial purchaser that the unit will remain their principal residence during the 5 year low income compliance period.

NOTE: Items B(5), B(6), and B(7) are submitted as confidential financial data and, to the extent permitted by law, will not be a public record.

VI. ISSUANCE OF REBATE

An issuance of rebate(s) will occur only after the review and approval of all submission requirements outlined in Section V. Rebates are a function of 1) Meeting the qualifications described herein; and 2) The total amount of funds available minus rebates paid to previously approved projects. Submission of application requirements does not guarantee rebate of development impact fees. In no event shall the amount of any rebates exceed the amount appropriated and available in the City's Affordable Housing Trust Fund (which is a designated reserve within the general fund).

VII. COMPLIANCE MONITORING - RENTAL PROJECTS

A. Record-keeping and Record Retention Provisions.

- (1) The owner of an affordable housing rental project is required to keep and have available for City review copies of records for each qualified rent restricted unit in the project showing:
- a. The number of units which received impact fee rebate;
 - b. The gross rent charged on each rent restricted unit in the project (See IV(D2) for a definition of gross rent);
 - c. the number of occupants in each rent restricted unit;
 - d. The rent restricted unit vacancies in the project and information that shows when, and to whom, the units were rented;
 - e. The annual income certification of each low-income tenant per rent restricted unit;
 - f. Documentation to support each low-income tenant's income certification;
 - g. The character and use of the nonresidential portion of the buildings and overall project (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

- (2) The owner is required to retain the records described in paragraph A(1) of this section for the duration of the 10 year compliance period.

NOTE: Items A(1)(e) and A(1)(f) are submitted as confidential financial data and, to the extent permitted by law, will not be a public record.

B. Certification and Review Provisions.

- (1) The owner of the affordable housing rental project is required to submit to the City an annual certification, on each anniversary of the date the project was placed in service, in a form to be provided by the City, that for the preceding 12-month period:
- a. The number of units which received impact fee rebate is equal to the number of rent restricted units occupied by income qualified tenants.
 - b. The owner has received an annual income certification from each low-income tenant and documentation to support that certification.
 - c. All units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless);
 - d. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;
 - e. All tenant facilities included in the project, such as swimming pool, other recreational facilities and parking areas, were provided on a comparable basis without charge to all tenants in the project;
 - f. If a rent restricted unit in the project became vacant during the year, the vacant unit must be rented to tenants having a qualifying income;
 - g. If the income of tenants of a rent restricted unit in the project increased above the limit allowed, the next available unit of comparable or smaller size in the project will become rent restricted and be occupied by tenants having a qualifying income for a rent restricted unit. If the project is 100% rent restricted, the project is still considered in compliance.

(2) The City will review the Owner certifications submitted pursuant to paragraph B(1) of this section for compliance with the requirements of this program.

- C. **Auditing Provision.** The City has the right to perform a program audit of any project funded by the Development Impact Fee Rebate Program during the ten (10) year low-income compliance period. An audit includes an inspection of any building in the project, as well as a review of the records including but not limited to those described in paragraph A(1) of this section.
- D. **Non-Compliance Provision.** Failure by the applicant to comply with the provisions outlined in Section VII of this document will subject the applicant to recapture provisions outlined in Section IV(D3) of this document and will affect the future participation of the principal of such applicant in the rebate program.
- E. **Multiple project compliance reporting provision.** Should a project have multiple compliance reporting requirements, the City can accept the compliance reports of those programs. Such determination will be made on a case by case basis by the City Planning Department.

VIII.COMPLIANCE MONITORING - HOMEOWNERSHIP PROJECTS

- A. It is assumed that the deed restriction will assure compliance with the five (5) year low-income compliance period. If the owner intends to sell the unit, written notice of intent to sell must be provided to the City Planning Department thirty (30) days prior to the closing of such sale. Sale proceeds are subject to recapture provisions outlined in Section IV(E3) of this document.
- B. **Multiple project compliance reporting provision.** Should a project have multiple compliance reporting requirements, the City can accept the compliance reports of those programs. Such determination will be made on a case by case basis by the City Planning Department.

DISCLOSURES: MISREPRESENTATIONS OF ANY INFORMATION WILL BE GROUNDS FOR IMMEDIATE REPAYMENT OF ALL DEVELOPMENT IMPACT FEE REBATE FUNDS RECEIVED PLUS INTEREST FROM THE DATE OF THE ISSUANCE OF THE REBATE (Prime Rate plus ten percentage points or the legal limit whichever is less) AND MAY AFFECT FUTURE PARTICIPATION IN THE AFFORDABLE HOUSING PROGRAMS OF THE CITY OF FORT COLLINS.