

ORDINANCE NO. 100, 2025
OF THE COUNCIL OF THE CITY OF FORT COLLINS
UPDATING VARIOUS PROVISIONS OF THE CODE OF THE
CITY OF FORT COLLINS RELATED TO AFFORDABLE HOUSING

A. The City seeks to update provisions in the Code relating to affordable housing. This Ordinance conforms usage of “affordable housing” in the City Code to the definition of that term in the Land Use Code, removes language for repealed affordable housing programs, and removes the codified \$50 fees for developers when requesting affordable housing fee delays.

B. Currently, both the Code and the Land Use Code provide benefits to the developers of affordable housing. These include fee credits and fee delays in Code and density and height bonuses in the Land Use Code. However, the Code and the Land Use Code define “affordable housing” differently. This Ordinance updates the definition of “affordable housing” within the Code to conform to the definition of “affordable housing” in the Land Use Code and applies the compliance, reporting, and monitoring requirements applicable to affordable housing developments under the Land Use Code to affordable housing developments under the Code.

C. This Ordinance also removes from Code references to two repealed programs: a sales and tax rebate program for affordable housing; and a fee waiver program for affordable housing developments.

D. Finally, this Ordinance also eliminates the Code provision setting \$50 fees for affordable housing developers when requesting a delay to pay capital expansion fees, utility development fees, and sales and use taxes, in order to allow such fees to be set administratively.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Subsection 51 of Section 5-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

51. A new CHAPTER 36 SUSTAINABLE BUILDING CONSTRUCTION PRACTICES is hereby added to read as follows:

...

3604.2 Definitions applicable to this Chapter:

Affordable Housing: Residential occupancies that meet the criteria established in the Land Use Code Article 5.2.1(C)-(G) and Land Use Code Article 7 as affordable housing.

. . .

Section 2. Section 7.5-26 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7.5-26. - Deferral of fees for affordable housing.

With respect to any building permit for a dwelling unit which is contained within or which constitutes an *affordable housing project development* as defined in ~~§ 26-631~~ **Article 7 of the Land Use Code and that meets the requirements of Article 5.2.1(C) through (G) of the Land Use Code**, any fees established under this Article and ~~not waived by the City Council under the provisions of Subsection 7.5-19(b)~~ shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Notwithstanding any provision in this Chapter to the contrary, in the event that, during the period of deferral, the amount of the deferred fee is increased by ordinance of the City Council, the fee rate in effect at the time of the issuance of the building permit shall apply. ~~At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.) to partially defray the cost of administration.~~ No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

Section 3. 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) If any such dwelling unit is contained within or constitutes an *affordable housing project development* as defined in ~~Chapter 26, Article IX of the Code~~ **Article 7 of the Land Use Code and that meets the requirements of Article 5.2.1(C) through (G) of the Land Use Code**, the fee established in this Section, ~~if not waived by the City Council under the provisions of Subsection 7.5-71(c)~~, shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit(s) or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Any person requesting such deferral shall, as a condition precedent to obtaining the deferral, secure the future payment of the deferred fee(s) by providing the City with a letter of credit or certificate of deposit in a form and amount acceptable to the City. ~~At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.) to partially defray the cost of administration.~~ No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

Section 4. Section 7.5-101 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7.5-101. - Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Affordable housing unit shall mean an affordable housing unit for rent or an affordable housing unit for sale, or both such units.

Affordable housing unit for rent and *affordable housing unit for sale* shall have the same meanings as set forth in § 26-631 of this Code Article 7 of the Land Use Code, provided the unit meets the requirements of Article 5.2.1(C) through (G) of the Land Use Code.

Credit shall mean funds designated and appropriated by the City Council to be applied towards the payment of fees as described in this Article.

Section 5. Chapter 25, Article II, Division 4 of the Code of the City of Fort Collins is hereby deleted in its entirety and held in reserve.

~~Sec. 25-55. Establishment.~~

~~There is hereby established a sales and use tax rebate program to provide relief from sales and use taxes charged on purchases of materials used in the construction of affordable housing units as that term is defined in § 26-631.~~

~~Sec. 25-56. Application for rebate.~~

~~Application for the sales and use tax rebate for affordable housing units shall be made on forms to be provided by the City.~~

~~Sec. 25-57. Qualifications.~~

~~In order to qualify for the rebate, the following requirements must be met:~~

~~(1) — The applicant must demonstrate to the satisfaction of the City that the materials upon which the sales and use taxes have been paid have been used in the construction of an affordable housing unit as defined in § 26-631 and that the applicant requesting the rebate is the same as the payor of the taxes, or, if not the same, has presented to the City the written permission of the payor to request and receive the rebate;~~

~~(2) — The applicant shall be in full compliance with all provisions of the Code and shall not be in default of the terms of any obligation, contract or other agreement with the City. If any application for a rebate is approved under the provisions of this Division, and the applicant for such rebate subsequently becomes delinquent in the payment of any tax, fee, charge or utility bill owed to the City, the rebate otherwise due said applicant may be applied by the City in whole or in part toward the payment of the delinquent tax, fee, charge or bill.~~

~~Sec. 25-58. Amount of rebate.~~

~~The amount of the rebate payable hereunder shall be the full amount of sales and use taxes paid for materials used in the construction of the affordable housing unit. The rebates provided for under this Division are subject to the appropriation of necessary funds, and the provisions of this Division shall not be construed as establishing any right or entitlement to a rebate on the part of any applicant.~~

~~Sec. 25-59. Administration.~~

~~The Financial Officer shall administer the program established by this Division and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Division and audit and verify the applications submitted pursuant to this Division. Any rebate application form shall require the claimant to verify and sign the application under oath. The burden of proving eligibility for a rebate under this Division is on the claimant. The Financial Officer may require reasonable information to support the rebate application.~~

~~Sec. 25-60. Sunset provision.~~

~~The sales and use tax rebate provisions established in this Division shall terminate and be of no further force and effect on December 1, 2001, and no rebate shall be paid after said date except for affordable housing projects for which building permits have theretofore been issued, unless this sunset provision is repealed or modified by the City Council.~~

Section 6. Section 25-130 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-130. - Deferred sales and use tax payments for affordable housing projects.

All sales and use taxes for materials purchased and used in the construction of an *affordable housing project development*, as this term is defined in ~~Code § 26-631~~ **Article 7 of the Land Use Code that meets the requirements of Article 5.2.1(C) through (G) of the Land Use Code**, shall, upon the request of the applicant, be deferred until the date of issuance of the certificate of occupancy (whether temporary or permanent) for such affordable housing project, or portion thereof, or until the first day of December of the year in which the deferral was obtained, whichever first occurs. ~~At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (%50.) to partially defray the cost of administration.~~ No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of taxes under this Section.

Section 7. The definition of *Affordable housing project* contained in Section 26-631 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-631. - Definitions.

~~Affordable housing project shall mean a development project in which: (1) at least seventy five (75) percent of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; (2) at least ten (10) percent of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of *affordable housing unit for rent* or *affordable housing unit for sale* (as applicable); (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (i) prior to the construction of the market rate units or (ii) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and (4) the units will be required, by binding legal instrument acceptable to the City and duly recorded with the County Clerk and Recorder, to be occupied by and affordable to low income households for at least twenty (20) years.~~ **development means an affordable housing development as defined in Article 7 of the Land Use Code that meets the requirements of Article 5.2.1(C) through (G) of the Land Use Code.**

Section 8. The definitions of *Affordable housing unit for rent* and *Affordable housing unit for sale* contained in Section 26-631 of the Code of the City of Fort Collins are hereby deleted in their entirety.

~~*Affordable housing unit for rent* shall mean a dwelling unit which is available for rent on terms that would be affordable to households earning eighty (80) percent or less of the median income of City residents, as adjusted for family size, and paying less than thirty (30) percent of their gross income for housing, including rent and utilities. The unit must be occupied by and affordable to such low income household(s) for a period of not less than twenty (20) years.~~

~~*Affordable housing unit for sale* shall mean a dwelling unit which is available for purchase on terms that would be affordable to households earning eighty (80) percent or less of the median income of City residents, as adjusted for family size, and paying less than thirty-eight (38) percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit must be occupied by and affordable to such low income household(s) for a period of not less than twenty (20) years.~~

Section 9. Section 26-632 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-632. - Deferral of fees.

With respect to any dwelling unit which is contained within or which constitutes an *affordable housing project* **development** as defined in § 26-631, the Water Plant Investment Fee ("WPIF"), Sewer Plant Investment Fee ("SPIF"), Stormwater Plant Investment Fee, the Water Supply Requirement Cash Payment, and the Electric

Development Fees and Charges, as established in this Chapter, shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit(s) or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Notwithstanding any provision in this Chapter to the contrary, in the event that, during the period of deferral, the amount of the deferred fee is increased by ordinance of the City Council, the fee rate in effect at the time of the issuance of the building permit shall apply. ~~At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.00) to partially defray the cost of administration.~~ No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

Introduced, considered favorably on first reading on June 17, 2025, and approved on second reading for final passage on July 1, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: July 11, 2025
Approving Attorney: Ted Hewitt

Exhibits: None