

ORDINANCE NO. 2476
INTRODUCED BY: Taddeo

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING THE DEVELOPMENT IMPACT FEES SECTION 3-5 OF THE BRIGHTON MUNICIPAL CODE

WHEREAS, the Brighton City staff has reviewed article 3-5 of the *Brighton Municipal Code* in comparison with other approved documents relating to affordable housing within the City of Brighton (the "City"); and

WHEREAS, City Council study sessions were held on January 28, 2025, and April 8, 2025, to consider revisions to the definition of affordable housing and the Attainable Housing Matrix; and

WHEREAS, City Council examined strategies to achieve the goals identified in the Brighton Housing Needs and Incentives Strategies Assessment, including redefining "affordable housing" and revising the guidelines for affordable housing fee reductions; and

WHEREAS, certain amendments to the *Brighton Municipal Code* are necessary to better provide affordable housing in the City; and

WHEREAS, the City Council has reviewed the proposed amendments to the *Brighton Municipal Code* and desires to adopt such amendments.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Brighton, Colorado, as follows:

Section 1. Article 3-5-10 is hereby amended as follows:

Sec. 3-5-10. Definitions.

(a) *Affordable housing* means a dwelling unit or group of dwelling units of either owner-occupied or rental housing whose sale or rental rate is restricted by an affordability mechanism such as a deed restriction, land use restriction agreement, covenant running with the land, or other regulatory agreement and for which qualifications for City fee reduction, subsidy, or other incentives are defined in Subsections (i) and (ii) below.

(i) Affordable owner-occupied housing shall be restricted for a minimum of thirty years to occupancy by an owner whose household income at the time of purchase is not more than the income limit indicated for one hundred percent (100%) Area Median Income as shown on the current Colorado Housing and Finance Authority Income Limit and Maximum Rent Table, as may be amended from time to time, for Adams County for the applicable size household. Approval of fee reduction, subsidy, or other incentives shall consider at a minimum the income restriction, affordability mechanism, home market rate value, and purchase requirements including but not limited to the buyer's financial status and mortgage terms.

(ii) Affordable rental housing shall be restricted for a minimum of thirty years to occupancy by a tenant whose household income is not more than the income limit indicated for eighty percent (80%) Area Median Income as shown on the

current Colorado Housing and Finance Authority Income Limit and Maximum Rent Table, as may be amended from time to time, for Adams County for the applicable size household, and for which the rental rate is not more than the maximum rental rate for the applicable bedroom count. Affordable rental housing may be a multi-unit building in which units are a mix of restricted and market rental rates.

(b) *Development impact fees or impact fees* means moneys paid to the City by owners, subdividers and/or developers of land within the City, as part of the City's land use development application review and approval process, and in connection with the construction of new developments, and in consideration of new residential, commercial, industrial or other development requiring the subdivision of land or the construction of infrastructure or other improvements within the City, including but not limited to fees, charges, or fee-in-lieu payments for acquisition of park land and trails, park and trails improvements or park and trails development; open space acquisition and preservation; traffic infrastructure, transit infrastructure, signalization and other traffic-related improvements; bridges and crossings; water and wastewater infrastructure, treatment facilities and other related improvements; water acquisition and storage facilities; drainage infrastructure and other related improvements; and such other and similar fees and charges adopted by the City Council from time to time by annual fee resolution, or otherwise, provided that such fees and charges are reasonably related to the impacts resulting from new developments or subdivisions of land within the City and the construction of infrastructure or other improvements related thereto.

Section 2. Article 3-5-50 is hereby amended as follows:

Sec. 3-5-50. Application for reduction or subsidy.

(a) An applicant seeking a reduction or subsidy of eligible development impact or other types of fees or seeking another form of incentive for affordable housing development must submit a written application, supplied by the Community Development Department, to the Director of Community Development (the "Director"). The application shall contain the name and address of each property owner and, if known, the developer, the information referenced in Subsection (b) below, and such supporting information as may be deemed necessary by the applicant or as may be requested by the Director. The applicant shall demonstrate that a need for the specified housing exists within the City and provide adequate financial information demonstrating that the project is economically unfeasible without the requested fee reduction, subsidy, or incentive.

(b) The Director shall review the application materials and make an initial determination of (in)sufficiency. If in the Director's reasonable determination, the application appears to be sufficient, the application shall be reviewed by a Committee, consisting of the City Manager, Director of Community Development, Director of Public Works, Director of Utilities, Director of Finance, Director of Parks and Recreation, and the City Attorney. Within a reasonable time thereafter, the Committee shall make a written recommendation to the City Council, including a recommendation as to the appropriate amount of the fee reduction or subsidy, if any, which recommendation shall address, at

a minimum, the following factors that are required to be set forth, demonstrated, described, and otherwise explained by the applicant in the application materials:

- (1) A description of the applicant's project and fee reduction proposal, including the number of units to be affordable housing units with their respective income limits and the total unit mix and bedroom count;
- (2) The length of time the affordability mechanism(s) will be in place (must be a minimum of 30 years);
- (3) Whether there is a commitment by the applicant to provide a minimum of five percent (5%) of the total units to one or more special needs populations including, but not limited to, homeless, senior residents including the age restriction (must be a minimum of 55 years), persons with disabilities, and agricultural workers;
- (4) Whether there is a commitment by the applicant to giving a priority to residents within the corporate limits of the City who are currently on a waiting list with the Brighton Housing Authority for affordable housing;
- (5) Whether there are construction features that will be included in the subject project that lower the cost of housing including utility costs;
- (6) Whether the applicant has diligently applied for, pursued, obtained, received, or has been denied other funds or subsidies, including state or federal funds, subsidies, grants, or other financing tools or products in this regard, all applicants hereunder are required to demonstrate that other available funding sources have been diligently pursued; and
- (7) Any other factors consistent with the intent of this Article that may support the application, that the Committee may deem necessary or pertinent to the subject application, or which are otherwise set forth in an administrative regulation.

Section 3. Article 3-5-60 is hereby amended as follows:

Sec. 3-5-60. Determination by City Council.

The City Council shall review the application, the Director's determination, and the Committee's recommendations pursuant to the application standards, guidelines, and factors set forth in Section 3-5-50 above, and any additional criteria established by the City Council from time to time, including but not limited to the Affordable Housing Fee and Dedication Reduction Table, to be used in determining and calculating the amount of any fee reduction, subsidy, or incentive, and in its reasonable discretion, make a decision. The City Council shall approve in whole or in part, approve with conditions, or deny the application by written resolution. The City Council shall issue its written decision on the application within ninety (90) days after its receipt of such application from the Director. During such ninety-day period, the City Council may request such additional information from the applicant as may be deemed necessary or advisable for the City Council's proper consideration thereof.

Section 4. As provided in City Charter Section 5.9(A), this Ordinance, either as presented or as amended, shall be published in full as it was adopted after the initial reading. This Ordinance shall be in full force and effect five days after its final publication, as provided in City Charter Section 5.8.

INTRODUCED, PASSED ON FIRST READING, AND ORDERED PUBLISHED, THIS 20th DAY OF MAY 2025.

PASSED ON SECOND AND FINAL READING, AND ORDERED PUBLISHED BY TITLE ONLY, THIS 17th DAY OF JUNE 2025.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

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APPROVED AS TO FORM

JAMES GALLAGHER, Assistant City Attorney