

## ARTICLE 3-5 Development Impact Fees

### 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 for occupancy by a tenant or homeowner whose income is eighty percent (80%) or less of the current median income for a four person family in the Brighton-Adams County area, as set by the U.S. Department of Housing and Urban Development and more particularly described in Subsections (b) and (c) below.
- (b) ~~*Affordable owner housing*~~ *Affordable owner-occupied housing* shall be restricted for a minimum of thirty years ~~to means a dwelling unit sold for~~ occupancy by an homeowner 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 is eighty percent (80%) or less of the current median family income by family size for the Brighton-Adams County area, as set by the U.S. Department of Housing and Urban Development.
- (c) ~~*Affordable rental housing*~~ *Affordable rental housing* shall be restricted for a minimum of thirty years ~~to means a dwelling unit for~~ 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 rates 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 or less of the current median income by family size for the Brighton-Adams County area, as set by the U.S. Department of Housing and Urban Development.
- (d) *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.

(Ord. 1737 §1, 2002; Ord. 2454, §1, 2024)

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

- (a) An applicant ~~desiring~~seeking a ~~subsidy or~~ 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 City Council, by and through 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 City Council in its reasonable discretion and consistent with the considerations and factors set forth herein, together with other considerations and factors deemed pertinent to the specific application, may approve the fee reduction or subsidy, in whole or in part, if the applicant proves compliance with this Article; if t~~he applicant shall demonstrate that a need for the specified housing exists within the City; ~~and if the applicant provides~~ adequate financial information demonstrating that the project is economically unfeasible without the requested fee reduction, ~~or~~ subsidy, or incentive.
- (b) ~~Each eligible person or qualified organization may apply for a development fee reduction or subsidy using the application form supplied by the Director of Community Development. Applications shall be submitted to~~ The Director, who 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 occupied by tenants or purchased and occupied by homeowners whose incomes meet the specific percentages of the median income by occupancy type;
  - (2) The length of time the affordability mechanism(s) will be in place (must be a minimum of 30 years) Whether or not there is a commitment by the applicant to a minimum ten-year or longer use period for affordable housing (tenant-occupied), or minimal five-year or longer use period for affordable housing (owner-occupied);
  - (3) Whether ~~or not~~ there is a commitment by the applicant to provide a minimum of five percent (5%) of the total units to one ~~(1)~~ or more special needs populations including, but not limited to, large-family (three [3] or more bedrooms), homeless, senior residents including the age restriction (must be a minimum of 55 years)-elderly, persons with disabilities, disabled 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 ~~or not~~ there are construction features ~~of that will be included in~~ the subject project that lower the cost of housing including utility costs for low income consumers;
  - (6) Whether ~~or not~~ the applicant has diligently applied for, pursued, obtained, and received, or has been denied, other funds or subsidies, including state or federal funds, subsidies, grants, or other financing tools or products; ~~in~~ in this regard, all applicants hereunder are required to demonstrate to the City Council that other available funding sources have been diligently pursued; and

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- (7) Any other factors consistent with the intent of this Article that may support the application, that the ~~Director may~~Committee may deem necessary or pertinent to the subject application, or which are otherwise set forth in an administrative regulation.

~~The application shall contain the name and address of each property owner, subdivider and/or developer, the above-referenced information and such supporting information as may be deemed necessary by the Director, the City Council or the applicant.~~

### **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, ~~or~~and any additional ~~written guidelines and~~ 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 ~~development impact fee~~ ~~subsidy or~~ 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. ~~The City Council shall approve in whole or in part, approve with conditions or deny the application by written resolution.~~