

Administrative Procedure For the Issuance of Residential Building Permits

Approved by City Council on April 3, 2007

This Administrative Procedure for Issuance of Building Permits (the “Administrative Procedure”) has been prepared pursuant to the requirements of, and in accordance with, Lafayette City Code Section 30-272(e)(2). In 2003, and, it appears, in all subsequent years, the number of committed dwelling units for each year is less than two hundred (200). Therefore, this Administrative Procedure is required to regulate the manner by which permits will be issued in accordance with the requirements of the City Charter and City Code.

Prior to January 31 of each year, the Planning Director shall bring before the City Council a resolution (the “Resolution”) setting the maximum number of dwelling units allowed to be permitted during that year, divided into the following classifications: exempt, non-exempt, and permanently affordable. The Resolution will list all developments or parts of developments, their priority classification, the number of undeveloped lots, and the number of permits allocated to each, to the extent such facts are known. An example of such resolution is attached hereto as Exhibit A. Priority classifications are established for each development at a public hearing sometime after sketch plan approval, but before final plan approval. The annual allocation of a specific number of permits is established as part of the Planning Commission’s preliminary plan review in accordance with PUD quality criteria.

Exempt permits will be issued upon demand, on a first-come first-served basis up to the exempt dwelling permit maximum as determined by the Resolution, in accordance with the established standard review and approval process. If the number of requests approaches the maximum number allowed by the Resolution, the Planning Director shall draft an amendment to the Resolution raising the exempt maximum, for Council consideration at a public hearing.

Non-exempt permits are divided into three categories: Committed, Otherwise Entitled to Priority, and Not Entitled to Priority. {See Lafayette Municipal Code Section 30-272(b).}

Permits eligible to be issued to Committed units, Otherwise Entitled to Priority units, and Not Entitled to Priority units shall be issued by the City in accordance with Charter Section 6.10, Code Chapter 30, Article XI, and any conditions established by the Planning Commission when granting the building permit allocation.

In the event that the annual total number of permits eligible for issuance in the categories of Committed units, Otherwise Entitled to Priority units, And Not Entitled to Priority units, does not exceed the annual maximum cap established for non-exempt units, then the additional following procedures apply.

Committed units shall be issued a permit in accordance with the applicable provisions of the Code and the legally binding agreement, whether that is a development agreement, phasing plan or other similar agreement. If any permits are requested above the maximum number allowed by the Resolution, the Planning Director shall first thoroughly investigate the supporting documents to verify that the request is included within a

legally binding commitment, as defined by the City Attorney. If the result of the investigation supports the request, then the Planning Director shall draft an amendment to the Resolution raising the maximum, for Council consideration at a public hearing. If the Council agrees to raise the non-exempt maximum, the non-exempt maximum for the following year shall be lowered by an equal amount.

Permits for units with a priority classification of *Otherwise Entitled to Priority* shall be issued after the Planning Director is satisfied that all Committed units expected to be requested during that year can be provided, and before the issuance of permits for units with a permit classification of Not Entitled to Priority. Then, the issuance of any such permits classified as Otherwise Entitled to Priority shall be limited to the maximum non-exempt dwelling unit cap in the Resolution, and by any conditions included with the building permit allocation plan granted by the Planning Commission.

Permits for units with a priority classification of *Not Entitled to Priority* shall be issued on a first-come, first-served basis, such order determined by the date and time of the development's preliminary plan approval by the Planning Commission. This interpretation is necessary to ensure some sense of predictability, planning, and conformance with the provisions of Charter Section 6.15. Permit issuance for units classified as Not Entitled to Priority may only occur to the extent that the Planning Director is satisfied that permits for all Committed units and Otherwise Entitled to Priority units can be provided under the established maximum cap.

In accordance with Section 30-274 of the City Code, by July 1 of each year, each holder of a unit classified as a Committed unit, Otherwise Entitled to Priority unit, or Not Entitled to Priority unit must confirm the number of their remaining permit allocations that they intend to purchase during that year. The method of confirmation is a \$1,000 deposit with the city for each unit, as established by Resolution No. 2005-10. The deposit shall be applied against the building permit fees for each dwelling unit. If the number of confirmed dwelling units actually permitted is less than those confirmed, then any remaining deposits shall be forfeited to the City's general fund. Any permits not so confirmed are made available to other developments holding a priority classification (i.e., Committed, Otherwise Entitled to Priority, or Not Entitled to Priority) on a first-come, first-served basis. The process to issue any non-confirmed permits is as follows:

1. After July 1, when the number of non-confirmed permits is known, the Planning Director shall contact the property owner and/or representative of each development holding a priority classification and inform them of the total number of available non-confirmed permits.
2. Once notified of the availability of non-confirmed permits, each development has the opportunity to apply for any or all non-confirmed permits, by the submittal of a building permit application. Such submittal may be made only after the development has been issued, or has applied for, all permits within the development's annual permit allocation for the current year.
3. Non-confirmed permits will be issued to developments holding a priority classification that have no remaining allocated permits for the current year on a first-come, first served basis.

In the event that a holder of a unit classified as non-exempt confirms their remaining permit allocation for year and then determines that they will be unable to apply for the reserved building permit for that unit or units, the City may, at its sole discretion, allow

the deposit to be refunded if, and only if, there is another holder of a unit classified as non-exempt willing to obtain the building permit. The decision to allow the deposit to be refunded should occur prior to December of that year in order to allow time for plan review and issuance of the building permit to the other non-exempt allocation holder. The refund of the original reservation deposit will not occur until the building permit has been paid for by the other holder of the non-exempt allocation.

Permanently Affordable permits shall only be issued for units qualified under the following definition:

Permanently Affordable Dwelling Units means a dwelling unit that is deed restricted for perpetuity to permit persons whose household income is less than or equal to eighty (80) percent of the then-current Boulder County area median income, as defined by the Department of Housing and Urban Development (HUD), as may be adjusted from time to time, to qualify to purchase or rent the dwelling unit.

Permits for units qualifying under the Permanently Affordable definition shall be issued on a first-come, first-served basis, such order determined by the date and time of the development's preliminary plan approval by the Planning Commission. This interpretation is necessary to ensure some sense of predictability, planning, and conformance with the provisions of Charter Section 6.15. The issuance of any Permanently Affordable permits shall be limited by any conditions included with the building permit allocation plan granted by the Planning Commission, and the dwelling unit maximum set for permanently affordable units in the Resolution.

In order to effectively and efficiently monitor compliance with this Administrative Procedure, the Planning Director shall maintain accurate and timely building permit records by project, classification, and year of issuance.