

ORDINANCE NO. 17, Series 2019  
INTRODUCED BY: COUNCILOR CAROLYN CUTLER

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AMENDING ARTICLE XIV OF CHAPTER 30 OF THE LAFAYETTE CODE OF ORDINANCES PERTAINING TO DEFERRAL AND WAIVER OF FEES RELATING TO THE DEVELOPMENT OF REAL PROPERTY**

WHEREAS, since 1998 economic development has been a high priority for the City; and

WHEREAS, Lafayette's Code of Ordinances includes authorization for City Council to waive certain fees under certain circumstances that are otherwise required in conjunction with new commercial, manufacturing, affordable housing developments, or multi-family/mixed unit developments, as a mean to encourage such development; and

WHEREAS, there are 'in-fill' areas within the City that are appropriate for new commercial, manufacturing, affordable housing developments, or multi-family/mixed unit developments, but which are difficult to develop as a result of various existing factors; and

WHEREAS, when appropriate, City Council believes that the waiver of certain fees would provide the necessary encouragement to accommodate such in-full development.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Section 30-400 of the Lafayette Code of Ordinances is hereby amended to read as follows:<sup>1</sup>

**Sec. 30-400. Permitted; conditions.**

*Regardless of whether the ordinance or resolution establishing a particular fee relating to the development of real property located within the city limits authorizes a deferral, ~~the~~ the time of the payment of any fee and/or the time of the accomplishment of any action as required by the Code of Ordinances of the City of Lafayette, Colorado and/or any resolution of the city all relating to the development of real property located within the city limits may be deferred by the city council to a time other than the time specified by the Code of Ordinances and/or a resolution of the city upon the following conditions:*

- (1) That the city council finds that the project is unique and/or necessary for the economic development of the city; and

---

<sup>1</sup> Additions to the current text of the Code are indicated by *italics*, and deletions are indicated by ~~strikethrough~~.

- (2) The city council finds that the location of the real property to be developed and the proposed development is in the best interests of the citizens of the city. ~~;~~ and
- (3) ~~—The section of the Code of Ordinances and/or the resolution of the city requiring the payment of a fee permits the deferral of the payment of such fee.~~

Section 2. Section 30-404 of the Lafayette Code of Ordinances is repealed in its entirety and re-enacted to read as follows:

**Sec. 30-404. Waiver of fees for charitable organization.**

City council may grant, in whole or part, by resolution, a waiver of the payment of all fees associated with the development of real property, except any and all fees associated with fund enterprises, including without limitation, water utility services, wastewater utility services, water rights dedication, stormwater construction and stormwater utility services, upon the making of the following findings:

- (1) The property owner(s) is (are) a charitable organization as defined by C.R.S. § 39-22-115;
- (2) Future use of the subject property shall be restricted to residential use only;
- (3) The residence to be constructed on the subject property shall be used to provide housing for a low income family as determined by the city council; and
- (4) The prospective owner(s) of the residence will provide a substantial in-kind contribution in the way of labor in construction of the residence.

Section 3. Subsection 30-405(a) of the Lafayette Code of Ordinances is hereby repealed in its entirety and re-enacted to read as follows:

(a) City council may grant, in whole or part, by resolution, an exemption from the city use tax established in Code sections 110-146 through 151, and a waiver of the payment of all fees associated with the development of real property, except any and all fees associated with fund enterprises, including without limitation, water utility services, wastewater utility services, water rights dedication, stormwater construction and stormwater utility services, upon the making of the following findings:

- (1) That the project for which the fees are waived and/or a use tax exemption is provided is a "new manufacturing facility," "new commercial facility," or "new mixed-use (apartment/commercial) facility," as such terms are defined herein; and
- (2) That the project is unique and/or necessary for the economic development of the city; and

- (3) That the location of the real property to be developed and the proposed development project is in the best interests of the citizens of the city; and
- (4) That benefits to the city, including, but not limited to, the creation or retention of a significant number of new jobs and a significant increase in tax revenues, are likely to result from the construction and use of the project, and further, that such benefits to the city clearly outweigh any burden to the city that may result from the loss of fee and tax revenue due to the fee waiver and use tax exemption provided for herein.

Section 4. Subsection 30-405(c) of the Lafayette Code of Ordinances is hereby amended to read as follows:<sup>2</sup>

(c) For the purposes of this section ~~and section 30-406 of this Code~~, the following definitions apply:

- (1) New manufacturing facility shall mean a new facility used to transform raw or finished materials by hand or machinery, and through human skill and knowledge, into something possessing a new nature and name, and adapted to a new use;
- (2) New commercial facility shall mean a new facility used as an establishment for the sale of goods or services for profit;
- (3) New mixed-use (apartment/commercial) facility shall mean a new facility, which may include more than one (1) structure, used for multifamily residential rental units, and which includes as a component of the project, facilities for the rental and sale of goods or services for profit; and
- (4) New facility shall mean a facility not in existence in the city at the time of the fee waiver or use tax exemption and shall not ~~shall not be construed to mean an alteration, expansion or relocation of~~ include a significant alteration, remodel, expansion of, or the relocation of, a manufacturing, commercial facility or mixed-use (apartment/commercial) facility existing in the city at the time of the fee waiver or use tax exemption.

Section 5. Subsection 30-405.5(b) of the Lafayette Code of Ordinances is hereby repealed in its entirety and re-enacted to read as follows:

(b) For charter affordable housing units (as such term is defined in section 28-7 of this Code) and for other dwelling units that, while not a charter affordable housing unit, will be legally restricted to be at least as restrictive with respect to affordability as such unit, city council may grant, in whole or part and by resolution, an exemption from the city use tax established in Code sections 110-146 through 151, and a waiver of the payment of all fees associated with the development of real property that are applicable to such unit or units, except any and all fees associated with fund enterprises, including without limitation, water utility services, wastewater

---

<sup>2</sup> Additions to the current text of the Code are indicated by *italics*, and deletions are indicated by ~~strikethrough~~.

utility services, water rights dedication, stormwater construction and stormwater utility services, upon consideration of, and the making of findings with regard to the following factors:

- (1) Whether, and the degree to which, the project for which the fees waivers and/or a use tax exemption is sought is a project that provides for affordable housing that exceeds the requirements of article II of chapter 28 et seq. of this Code or the community housing guidelines;
- (2) Whether, and the degree to which, the project is unique and/or necessary for the development of affordable housing within the city;
- (3) Whether, and the degree to which, the location of the real property to be developed for affordable housing is in the best interests of the citizens of the city;
- (4) Whether, and the degree to which, the dwelling units in an affordable housing project include characteristics and/or materials that are likely to lower the operation or maintenance costs of the units;
- (5) Whether, and the degree to which, benefits to the city, including, but not limited to, the diversification of the housing stock and the expansion of opportunities for people who work in the city to live in the city, are likely to result from the construction and use of the project, and further, whether such benefits to the city are likely to outweigh any burden to the city that may result from the loss of fee and tax revenue due to the fee waiver and use tax exemption provided for herein; and
- (6) Whether, and the degree to which, other aspects of an affordable housing project further the purposes set forth in article II of chapter 28 of this Code of Ordinances.

Section 6. Section 30-406 of the of the Lafayette Code of Ordinances is hereby repealed in its entirety.

Section 7. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 8. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 9. The repeal or modification of any provision of the Code of Ordinances, City of Lafayette, Colorado, by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any

judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 10. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 11. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Code of Ordinances, City of Lafayette, Colorado.

Section 12. This ordinance shall become effective upon the latter of the 10<sup>th</sup> day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 7TH DAY OF MAY, 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 21ST DAY OF MAY 2019.

CITY OF LAFAYETTE, COLORADO

---

Alexandra Lynch, Mayor

ATTEST:

---

Susan Koster, CMC, City Clerk

APPROVED AS TO FORM:

---

David S. Williamson, City, Attorney