

ORDINANCE NO. 01 , Series 2013
INTRODUCED BY: COUNCILOR LYNCH

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, PROVIDING FOR A 120-DAY MORATORIUM ON THE SUBMISSION, ACCEPTANCE AND PROCESSING OF ANY APPLICATION FOR, AND THE ISSUANCE OF, ANY BUILDING PERMIT FOR NEW DWELLING UNITS THAT ARE NOT EXEMPTED FROM THE PROVISIONS OF SECTION 6.10 OF THE CITY OF LAFAYETTE HOME RULE CHARTER, AS WELL AS THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR LAND USE APPROVALS THAT INCLUDE SUCH DWELLING UNITS

WHEREAS, in 1995, the City amended its Home Rule Charter to require a system of residential growth management that intended to limit residential growth in the City to a rate of no more than 3% per year. That Home Rule Charter amendment restricted the issuance of residential dwelling unit permits to 1200 units during a six-year period, with a further annual restriction of 200 units per year during such six-year period. Certain properties were exempted from the provisions of the Residential Growth Management Charter amendment; and

WHEREAS, on November 6, 2012, the voters of the City of Lafayette amended the Residential Growth Management provisions of the Home Rule Charter to delete the annual restriction on the number of dwelling units that could be constructed within the City; to require City Council to adopt an ordinance addressing the manner by which the six-year limit of 1200 units would be allocated over that period of time; and to exempt additional properties from the provisions of the Residential Growth Management restrictions; and

WHEREAS, as required by the November 6, 2012 Charter amendment, City Council is in the process of amending Article XI, Chapter 30 of the Lafayette Code of Ordinances to address the criteria that it will utilize in determining the maximum annual number of new dwelling units that are allowed to be built in any year under the Charter limitations, and to address the method of allocation of permits for new dwelling units over the entire six-year period that is covered by Section 6.10 of the Lafayette Home Rule Charter; and

WHEREAS, the imposition of a 120-day moratorium on the submission, acceptance, processing and approval of all applications for building permits for new dwelling units that are not otherwise exempted from the Growth Management provisions of Section 6.10 of the Lafayette Home Rule Charter, as well as applications for land use approvals for developments that include such dwelling units, will allow staff and the Council to investigate and adopt amendments to Article XI, Chapter 30 of the Lafayette Code of Ordinances pertaining to the manner by which residential building permits will be allocated, as contemplated and required by Section 6.10 of the Lafayette Home Rule Charter; and

WHEREAS, if a moratorium is not enacted prior to amendment of Article XI of Chapter 30 of the Lafayette Code of Ordinances, the ability of City Council to effectively address the allocation of dwelling unit permits in a fair and comprehensive manner will be compromised; and

WHEREAS, until such time as Article XI of Chapter 30 of the Lafayette Code is

amended to reflect the recent changes to Section 6.10 of the Lafayette Home Rule Charter, the City will not be in a position to fully and comprehensively evaluate and assess proposed land use developments that include dwelling units that are subject to the Charter's Growth Management provisions; and

WHEREAS, the duration of the moratorium imposed by this ordinance is reasonable in length and is no longer than is required for the City to properly develop, adopt and implement ordinances deemed necessary with respect to the allocation of new residential building permits that are subject to the growth management provisions of Section 6.10 of the Lafayette Home Rule Charter; and

WHEREAS, owners and developers of real property desiring to construct new dwelling units will not be unfairly prejudiced by the imposition of the short, temporary moratorium proposed by this ordinance.

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

Section 1. Upon the final adoption of this ordinance, a moratorium is imposed upon (1) the submission, acceptance and processing of applications for, and issuance of, all building permits by the City of Lafayette for, or related to, construction of new dwelling units within the City that are not otherwise exempted under the provisions of Section 6.10 of the Lafayette Home Rule Charter, and (2) the submission or processing of an application for, or approval of, any land use approvals, including, without limitation, sketch plans, preliminary plans, and final plans for developments that include dwelling units that are subject to the Charter's Growth Management limitations. The City staff, and the City's Planning Commission are directed to refuse to accept for filing, and not to process or review, any such new such applications, or to issue any building permits for dwelling units not otherwise exempt from Section 6.10 of the Lafayette Home Rule Charter during the moratorium.

Section 2. The moratorium imposed by this ordinance shall commence as of the date of the final adoption of this ordinance and shall expire 120 days thereafter, unless sooner repealed.

Section 3. Before the expiration of the moratorium imposed by this ordinance, the City staff, working with the City attorney, shall prepare proposed amendments to Article XI, Chapter 30 of the Lafayette Code of Ordinances for consideration by City Council that will set out criteria to be utilized in determining the annual number of new dwelling units that are allowed to be built in any calendar year, and which will address allocation of permits for new dwelling units over the period of time from calendar years 2013 through 2018; all in compliance with the provisions of Section 6.10 of the City of Lafayette Home Rule Charter.

Section 4. City Council shall have the power to grant a special exception to the prohibition of Section 1 of this ordinance, and to order acceptance and processing, and, if appropriate, the issuance of a building permit for a new dwelling unit, or land use approval, if the following conditions are met, as determined in the sole satisfaction of City Council:

a) A written application for a special exception must be submitted indicating the purpose of the building permit, or land use approval, sought to be obtained and stating with particularity the circumstances of the undue, substantial hardship that the applicant will suffer if the special exception is not granted;

b) Within thirty (30) days the City Council shall hold a public hearing on the application for special exception. Notice shall be given at least 10 days in advance of the public hearing. The owner of the property, or agent, shall be notified by mail. Notice of such hearing shall be posted on the property and shall be published in a newspaper with general circulation within the City of Lafayette at least ten (10) days prior to the public hearing.

c) City Council may grant the special exception if it finds all of the following:

(i) The acceptance and processing of the application for, and issuance or approval of, if appropriate, the building permit or land use approval is necessary to prevent undue, substantial hardship for the applicant; and

(ii) The acceptance and processing of such application, and issuance or approval of the building permit or land use approval, will not affect the public interest or the purpose and reasons for this moratorium; and

(iii) The acceptance and processing of such application, and, if appropriate, the issuance of the building permit, or land use approval, will be in accordance with all of the ordinances and regulations of the City of Lafayette as if the moratorium were not in effect.

Section 5. The provisions of this ordinance and the moratorium imposed hereby, shall not affect or otherwise prohibit the submission, acceptance and processing of any application for, or the issuance of, building permits for new dwelling units that are exempted from the provisions of Section 6.10 of the Lafayette Home Rule Charter.

Section 6. 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 7. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 8. The repeal or modification of any provision of the Code of Ordinances 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 9. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

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

INTRODUCED AND PASSED ON FIRST READING THE 7TH DAY OF JANUARY, 2013.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 15TH DAY OF JANUARY, 2013.

CITY OF LAFAYETTE, COLORADO

Carolyn D. Cutler,
Mayor

ATTEST:

Susan Koster, CMC
City Clerk

APPROVED AS TO FORM:

David S. Williamson,
City Attorney