

# ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE AMENDING THE HELENA CITY CODE TO ALLOW FOR THE DISCRETIONARY WAIVER OF CITY FEES ON AFFORDABLE HOUSING PROJECTS TO BE CONSTRUCTED IN THE CITY OF HELENA

**WHEREAS**, the City of Helena wishes to provide an incentive for all developers to provide units affordable to those making less than 60% of the area median income by amending the City Code to allow developers of units targeting that income bracket to request fee waivers for the affordable portion of their projects.

**WHEREAS**, the City has no formal process to waive permit fees for affordable housing.

**WHEREAS**, whether to grant a fee waiver would be left to the discretion of the City Commission.

**WHEREAS**, the City Commission believes it is in the best interests of the City of Helena to amend the City Code accordingly.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:**

Title 3, Chapter 1, of the Helena City Code is hereby amended as follows:

### **3-1-5. Waiver of Fees.**

A. The City Commission may, by resolution, at its sole discretion, waive the imposition of a portion or all of any

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fee imposed by the provisions of Title 3 of the Helena City Code for an affordable housing project.

- B. For purposes of this section "affordable housing project" is defined as a housing project intended to house:
  - 1. homeless or disabled persons, as such terms are defined by the Department of Housing and Urban Development, or
  - 2. households with an annual income that does not exceed sixty (60) percent of the area median income for the applicable household size in the Lewis and Clark County statistical area, as published by the Department of Housing and Urban Development; and
- C. A developer seeking waiver of fees pursuant to this section must submit an application, provided by the City, prior to the issuance of any certificates of occupancy for the project that is subject to the waiver request.
- D. To grant a waiver of fees the City Commission must find that:
  - 1. the project meets the definition of an "affordable housing project;" and
  - 2. the proposed waiver will not jeopardize the financial interests of the City. In making this determination, the City Commission may consider any of the following factors:
    - a. The size of the project.
    - b. The number of persons proposed to be served.
    - c. The financial capability of the applicant to pursue the project without fee waiver.
    - d. The length of time the project is guaranteed to remain affordable.
    - e. The manner in which the applicant has guaranteed the project will remain affordable.
    - f. Any other factor the City Commission deems relevant.

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- E. The City Commission may conditionin the waiver of fees to ensure the project remains affordable. Conditions imposed by the City Commission can include, but are not limited to:
1. time limitations;
  2. written agreements;
  3. guarantees;
  4. proof of income verification;
  5. annual certification of rents; and
  6. annual certifications of compliance.
- F. The City must keep a record of all waivers of fees granted pursuant to this section.
- G. If the City of Helena Determines that an affordable housing project has violated any condition imposed under Section 3 above, the City of Helena may seek the full balance of the waived fees, which may be attached as a lien against the property.

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,  
THIS 9<sup>th</sup> DAY OF DECEMBER, 2019.**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COMMISSION**

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**FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,  
THIS 13<sup>th</sup> of January, 2020**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COMMISSION**