

ORDINANCE NO. 774

AN ORDINANCE OF THE TOWN OF MILLIKEN, COLORADO, AUTHORIZING THE WAIVER OF CERTAIN SPECIFIED FEES IN CONNECTION WITH THE PROVISION OF CHARITABLE SERVICES RELATED TO PROVISION OF AFFORDABLE HOUSING

WHEREAS the Board of Trustees for the Town of Milliken, Colorado, (“Board”) views enhanced availability of affordable housing as a meritorious public purpose;

WHEREAS the Board desires to facilitate the availability and construction of affordable housing through limited waivers of fees;

WHEREAS the Board recognizes that the goal of enhancing the availability of affordable housing can be achieved through varied approaches, including development of individual properties;

WHEREAS notwithstanding its desire to facilitate enhanced availability of affordable housing, the Board also recognizes its duty to guard against any material negative impact to the Town’s budgets and overall fiscal objectives;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COLORADO, AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

- a. “Application” means the Application for Waiver of Residential Construction Fees that must be completed by the Applicant and submitted to the Town Administration for review in accordance with this ordinance.
- b. “Applicant” means any person seeking waiver of fees under this ordinance for the construction or improvement of a residence.
- c. “Beneficiary” means the individual or individuals identified in the Application who will receive title to the residence that is to be constructed.
- d. “Subject Property” means the real property identified in the Application where a residence is to be constructed or improved.
- e. “Project” means the construction proposal described in the Application.
- f. “Application Administrator” means the Town Administrator or his or her designee.

Section 2. Applicability. This ordinance applies to all Applications for a waiver of Town fees in connection with construction of housing.

Section 3. Application. The Application Administrator is authorized and directed to prepare an Application form consistent with the requirements of this ordinance that elicits

information he or she deems necessary and appropriate to evaluate a request for waiver of fees under this ordinance. At a minimum, the Application form shall require the following information to be provided:

- a. The name of the Applicant;
- b. The form of entity of the Applicant and a description of the Applicant's non-profit or not-for-profit status;
- c. The mailing and physical address of the Applicant as well as telephone and email contact information;
- d. The name (or names) of the Beneficiary;
- e. The address of the Subject Property;
- f. A detailed description of the Project;
- g. The names of all current owners of the Subject Property;
- h. For each current owner of the Subject Property, mailing and physical address as well as telephone and email contact information or an explanation of why such information is not available;
- i. A description of any mechanism by which the town is assured that the residence to be constructed or improved on the Subject Property will be used to provide housing for a low income family;
- j. A description of any in-kind contribution to the Project that will be made by the Beneficiary;
- k. If the Beneficiary is not the current owner of the Subject Property, a description of the process by which the Beneficiary will obtain title to the Subject Property and the timing thereof; and
- l. A listing of the particular fees that the Applicant is asking the Town to waive.

Section 4. Submission of Application. In order to be eligible for waiver of fees under this ordinance, an Applicant must submit to the Application Administrator a completed Application for Waiver of Residential Construction Fees including any required supporting information.

Section 5. Eligibility. To be eligible for consideration of waiver of fees under this ordinance, Applicants must be non-profit or not-for-profit organizations that provide, or seek to provide, services to Milliken residents the responsibility for which does not normally rest with other levels of government. The following organization types are specifically excluded from eligibility: for profit entities, faith based organizations, political organizations, and educational institutions.

Section 6. Fees subject to waiver.

- a. The following fees and charges are subject to waiver under this ordinance:
 - 1) Building Permit Administration Fee

- 2) Building Permit Fee
 - 3) Construction Meter Fee
 - 4) Deferred Payment Fee
 - 5) Electrical Meter Release Inspection Fee
 - 6) Plan Review Fee
 - 7) Residential Electrical Fee
- b. Even if listed in this section, any fee that the Town is prohibited from waiving under a contract with a third party or a statute may not be waived.
 - c. If any fee listed in this section is paid in part to a third party, the Town is prohibited from waiving the portion paid to such third party unless the third party consents to such waiver.

Section 7. Referral of Application to Town Departments. Upon receipt of a completed Application for fee waiver under this ordinance, the Application Administrator will refer the Application to the following Town departments for comment: Building, Planning, Community Development, Police, and Finance.

Section 8. Comments from Town Departments. Within ten days of receipt of the referred Application, each Town department will provide such comments on the Application as are within the department's area of expertise. The Finance department in particular will provide comments on the degree to which any grant of fee waivers may materially impact in a negative way the Town's budgets and overall fiscal objectives.

Section 9. Report and Recommendation to Board of Trustees. Upon receipt of comments on the Application from all Town departments to which the Application was referred, the Application Administrator will prepare and deliver to the Board a report and recommendation to the Board on whether the Application should be granted in whole or in part and stating the reasons for such recommendation.

Section 10. Evaluation Considerations. Each Town department in preparing its comments, and the Application Administrator in preparing the required report and recommendation, shall address each of the following considerations:

- a. The extent to which the Project is unique, necessary, or appropriate for the economic development of the town;
- b. The extent to which the Project is in the best interests of the citizens of the town based on the location of the Subject Property and the description of the Project;
- c. Whether the Applicant is a charitable organization;
- d. The extent to which future use of the Subject Property shall be restricted to residential use only;
- e. Whether the residence to be constructed or improved on the Subject Property shall be used to provide housing for a low income family;

- f. Whether the Beneficiary will provide any in-kind contribution to the Project such as labor;
- g. Whether with respect to a particular fee payable to an enterprise of the Town that the Applicant has requested be waived, the particular enterprise would be materially impacted in a negative way;
- h. Whether approval of the Application, in whole or in part, would materially impact the Town's budgets and overall fiscal objectives;
- i. Whether, with respect to a particular fee that the Applicant has requested be waived, a portion of that fee is paid to a third party and whether that third party consents to waiver; and
- j. Whether, with respect to a particular fee that the Applicant has requested be waived, the Town is under any contractual obligation to a third party that prohibits the Town from waiving that fee.

Section 11. Board Action. Upon receipt of the Application Administrator's report and recommendation, the Board may approve the Application, deny the Application, or approve the Application in part or with conditions, subject to the limitations in this ordinance.

Section 12. Board Action – Deferral. In addition to any other condition the Board may elect to impose, the Board is specifically authorized to attach the following conditions to any fee waiver approval

- a. That the fees will only be deferred pending the Beneficiary obtaining title to the Subject Property;
- b. That the Beneficiary must obtain title to the Subject Property within a period to be set by the Board; and
- c. That the full amount of any fees deferred will become due and payable immediately if the period of time set by the Board for the Beneficiary to obtain title to the Subject Property passes and the Beneficiary has not obtained title.

Section 13: Effective Date. This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.

Introduced, read, adopted, signed and ordered published by title only by the Board of Trustees of the Town of Milliken this 14th day of August, 2019.

TOWN OF MILLIKEN

Beau Woodcock, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Matthew T. Gould, Town Attorney

Published by title only, together with the statement that “[t]he complete text of all ordinances is available at the Town offices and on the Town’s official website” on ____, 2019.

Cheryl Powell, Town Clerk