

EFFECTIVE DATE: 9-24-16

ORDINANCE NO. 2016- 36

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 130 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, BY THE ADDITION OF A NEW ARTICLE IX ESTABLISHING AN INFILL DEVELOPMENT INCENTIVE PROGRAM FOR THE CITY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Chapter 130 of the City Code of the City of Aurora, Colorado, is hereby amended by the addition of a new Article IX, entitled "Infill Development Incentive Program," which article shall read as follows:

ARTICLE XI. INFILL DEVELOPMENT INCENTIVE PROGRAM

SEC. 130-562. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Infill Development Parcel means an area of platted or unplatted land that, together with all adjacent vacant land in private ownership, includes no more than ten acres of land, and where the land along at least 75 percent of the boundaries of the proposed subdivision (ignoring intervening Streets) has been developed for a period of at least twenty-five years. This excludes any parcels that are contained within a master plan.

Infill Incentive Area Boundary means the area of the city demarcated by Tower Road on the eastern edge to the Aurora/Denver city boundary on the western edge, and from Quincy Avenue on the southern edge to Interstate -70 on the northern edge.

SEC. 130-563. Legislative Declaration.

The city council finds and declares that:

- (a) The health, safety, and welfare of the people of the city are dependent upon private investment through infill development and redevelopment in older portions of the city;
- (b) Incentives are often necessary in order to attract new private enterprise and to encourage existing private enterprises to redevelop or expand infill areas;
- (c) Providing infill development incentives will alleviate safety and aesthetic concerns associated with infill areas, while stimulating economic development in the city with the creation and maintenance of new jobs, services, and housing; and

- (d) The public purpose to be served by providing infill development incentives to attract new businesses and to expand or redevelop existing businesses in the city outweighs any individual interests incidentally served thereby.

SEC. 130-564. Application.

- (a) Any person intending to develop or redevelop an infill development parcel within the infill incentive boundary area shall be eligible to apply for an incentive for their project under the infill development incentive program. Each application shall be made on forms approved by the city manager or the city manager's designee.
- (b) Each application shall be submitted within the same 12-month period in which the person reasonably expects to develop or redevelop such infill area.
- (c) The city manager or the city manager's designee shall review each application for each project for the incentive for compliance with the following criteria for eligibility:
 - (1) The project must be for the development or redevelopment of an infill development parcel within the infill development area boundary.
 - (2) A commercial infill development or redevelopment project shall be limited to an area of 5,000 square feet or less for a single story project and an area of 10,000 square feet or less for a multiple story project.
 - (3) A residential infill development or redevelopment project shall be limited to a minimum project size of two residential units and a maximum project size of eight residential units.
 - (4) An infill development project must be at a scope of work to require either the submittal of a development application and/or the issuance of a limited building permit, as defined by the city's building division.
 - (5) Such requirements the city manager or the city manager's designee may deem necessary and appropriate that are not inconsistent with this article.
- (d) The city manager or the city manager's designee may deny an application for any person who:
 - (1) Has not complied with or has repeatedly not complied with all relevant statutory, charter, and ordinance requirements.
 - (2) Has failed to satisfy all fees, charges, taxes, special assessments, and other debts or obligations that are due from the person and payable or obligated to the city regarding any matter.

SEC. 130-565. Incentive; limitations

- (a) The city manager or the city manager's designee may negotiate and enter into an agreement with any person eligible to apply for and receive an incentive who develops or redevelops an infill area within the infill area boundary of the city for a grant to offset development related fees, sales taxes or use taxes charged or levied by the city upon such person. Such agreement or any amendment thereto may provide for a grant to offset development related fees, sales taxes and use taxes, as estimated by city staff, as an incentive to develop or redevelop infill areas as follows:

- (1) For a period not to exceed 24 months from the date upon which the person enters into an agreement with the city, up to and including 50 percent of the development related fees charged to the person or any contractor or subcontractor as listed in the city's Development Handbook Fee Schedules Appendix. Such offset excludes those development related fees in Fee Schedule 5 and Fee Schedule 7 related to water development and connection fees.
 - (2) For a period not to exceed 24 months from the date upon which the person enters into an agreement with the city, up to and including 50 percent of the revenues produced by the levy of city sales tax upon the person or any contractor, subcontractor, or supplier for the equipment and materials used in the construction or improvement of any land, building or other structure for the person's business made necessary as the result of the development or redevelopment of infill area; provided that, for purposes of this subsection (a)(1), "city sales tax" shall exclude the .25 percent use tax dedicated to increased staffing of the city police department and operation and maintenance of the city detention facility;
 - (3) For a period not to exceed 24 months from the date upon which the person enters into an agreement with the city, up to and including 50 percent of the revenues produced by the levy of city use tax upon the person or any contractor, subcontractor, or supplier for the equipment and materials used in the construction or improvement of any land, building or other structure for the person's business made necessary as the result of the development or redevelopment of infill area; provided that, for purposes of this subsection (a)(1), "city use tax" shall exclude the .25 percent use tax dedicated to increased staffing of the city police department and operation and maintenance of the city detention facility;
 - (4) The total amount of development related fees, sales taxes and use taxes offset by an infill development incentive from the city shall not exceed \$25,000 per project submitted by a person.
- (b) All incentives provided hereunder shall be subject to the following requirements:
- (1) The project must meet all city building and zoning code requirements with no waivers of such requirements, other than approved hardship waivers.
 - (2) The project must receive a building permit within 12 months, with an allowance for a one-time six month extension for a total of 18 months.
 - (3) The project must not have received any incentive available under the City Code or be inconsistent with any city urban renewal plan or city comprehensive plan.
 - (4) The eligibility for the infill incentive program for projects of persons operating the following businesses shall be determined by city council by an affirmative vote at a regular meeting of the city council due to the nature and tendency of such business to attract crime and other undesirable elements to an area:
 - i) Businesses engaged in cultivating, manufacturing, distributing, or selling recreational or medical marijuana.

- ii) Business operating as a sexually-oriented business as defined by Section 86-546 of the City Code.

SEC. 130-566. Agreement required.

- (a) The terms and conditions of any development related fee, sales tax or use tax incentive granted by the city shall be set forth in a written agreement between the city and the person that may be approved, and executed by the city manager or the city manager's designee after a report to the city council subject to a call-up period. The call-up period shall expire after the regular city council meeting following the city council meeting at which the agreement was reported to city council.
- (b) At a minimum, any agreement relating to the incentive grant shall be subject to the following requirements:
 - (1) The person shall develop or redevelop an infill development parcel within the infill boundary area of the city and maintain the project for such a period of time as determined by the agreement;
 - (2) The person shall warrant to the city that the project shall be in compliance with all applicable zoning and other federal, state, county, and city statutes, rules, regulations, and ordinances;
 - (3) The terms of the agreement between the city and the person shall provide for sanctions, including but not limited to termination of the agreement and reimbursement of fees, sales tax or use tax offset through a grant by the city with reasonable interest thereon, if the person fails to meet its obligations thereunder. Such agreement shall further provide procedures and remedies to enforce all terms and conditions therein, including but not limited to the imposition of liens upon real and personal property, the denial of an issuance of a certificate of occupancy, or the disconnection of utility services provided by the city; and
- (c) No such agreement shall be entered into by the city pursuant to this section prior to the approval of such agreement by the city attorney as to form.

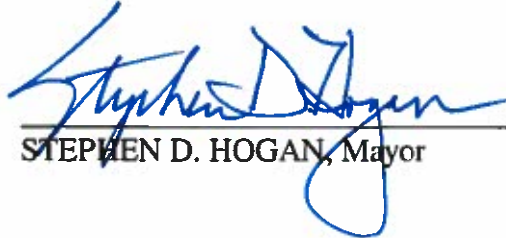
Section 2. The city council has appropriated the initial funding for the infill development incentive program. The incentive provided by this ordinance shall remain available until the depletion of the initial funding or until December 31, 2018, whichever occurs first. Upon the depletion of the program funding or prior to December 31, 2018, city staff may request an additional funding allocation and/or program extension from city council with a showing of the continued need and effectiveness of the infill development incentive program in meeting the goals and objectives herein.

Section 3. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

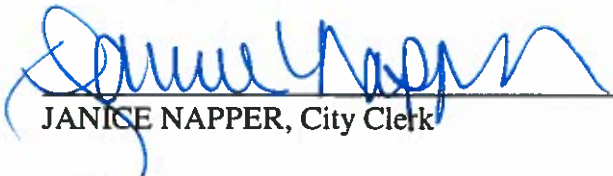
Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this 8th day of August, 2016.

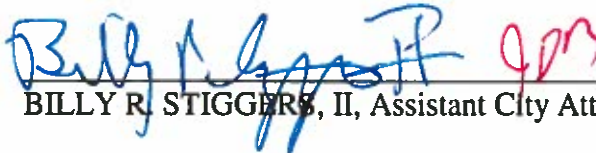
PASSED AND ORDERED PUBLISHED BY REFERENCE this 22nd day of August, 2016.


STEPHEN D. HOGAN, Mayor

ATTEST:


JANICE NAPPER, City Clerk

APPROVED AS TO FORM


BILLY R. STIGGERS, II, Assistant City Attorney