THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: July 27, 2021

Subject: Fee Rebate Policy for Affordable Housing and Sustainable Development

Staff Resource(s): Paul D'Angelo, Community Development Program Director
Ben Woody, Development Services Director
Nikki Reid, Interim CED Director

Action Requested: Approval of an Updated Fee Rebate Policy allowing Community & Development Services Staff to approve Fee Rebates for affordable units.

Background:

- In March of 2011, City Council adopted a Fee Rebate Policy as part of a broader Land Use Incentive Grant (LUIG) Policy to incentivize development of affordable housing in accordance with Council strategic goals.
- A fee rebate is a refund of certain development and planning related fees that may be granted in accordance with this policy upon completion of an affordable housing project.
- The City of Asheville Fee Rebate Policy for Affordable Housing & Sustainability was updated on October 22, 2019, adopted by the Asheville City Council by Resolution #19-244.
- Highlights included making Fee Rebates a stand alone policy, incorporating tiered rebates based on affordability, adding sustainability rebates, and up front fee waivers.
- The current Fee Rebate Policy states -
    - The applicant should expect the application to be considered in four meetings open to the public: 1) at a regular meeting of the Housing and Community Development Committee; 2: at a regular meeting of the Finance & Human Resources Committee; 3) at a regularly scheduled City Council meeting, when a motion to hold a public hearing will be formally considered; 4) at a regularly scheduled City Council meeting when the public hearing will be heard, and the grant request will be formally considered by Council.
    - Approval of a Fee Rebate Grant under this Policy requires a public hearing and approval by the City Council.
- With the generally lower dollar amounts of Fee Rebates & Fee Waivers, and a yearly budget, Community Development and Development Services staff feel Fee Rebates & Waivers can be managed, monitored and approved at a Staff Level, without the added time of committee & council meetings.
- As with other policies, the Fee Rebate Policy will continue to be reviewed yearly after its adoption in partnership with other departments, stakeholders and the community.
- After review with the partners, CD staff feel the added steps of committees and Council is not necessary for this affordable housing tool.

Council Goal(s):

- Quality Affordable Housing
- An Equitable and Diverse Community

Committee(s):

- Housing & Community Development Committee June 15, 2021- CD update / move to Council

Pro(s):

- The proposed policy update comes from staff, community stakeholders, developers and committee members over the past year.

- The policy follows Community Development efforts of creating policies that are easy to comprehend, usable and equated to an investment amount to be used as a source in a pro forma.
- The policy will save time for staff, committees, Council and the applicant.

Con(s):
- None

Fiscal Impact:
- None

Suggested Motion:
- Motion to approve the new stand alone Fee Rebate Policy.

Attachment(s)
- Resolution
- Draft Fee Rebate Policy

RESOLUTION 21-____

RESOLUTION UPDATING THE FEE REBATE POLICY FOR AFFORDABLE HOUSING DEVELOPMENT ADOPTED BY RESOLUTION NO. 19-244 TO ALLOW APPROVAL OF FEE REBATES AT THE STAFF LEVEL

WHEREAS, pursuant to N.C. Gen. Stat. § 160D-1316, the City of Asheville is authorized to appropriate and expend funds for community development programs and activities, including funds for housing for low and moderate income persons; and

WHEREAS, the Fee Grant Program for Affordable Housing provides incentive grants for the development of affordable housing; and

WHEREAS, the Asheville City Council first adopted an Affordable Housing Fee Rebate Program as part of a broader Land Use Incentive Grant (LUIG) Policy to incentivize the development of affordable housing in March 2011. The Council directed that the LUIG, including Fee Rebates, be reviewed yearly after its adoption. The most recent Fee Rebate Policy was adopted on October 3, 2017 per City Council Resolution No.17-226 and again on October 22, 2019 per City Council Resolution No. 19-244; and

WHEREAS, the Community Development Division and Development Services Department believe Staff can manage, monitor and approve Fee Rebates with their expertise versus the current policy that states committees and Council approve the Fee Rebates; and

WHEREAS, the amount of Fee Rebates is generally low and budgeted on an annual basis based on previous and anticipated use; and

WHEREAS, an updated policy with Fee Rebates being decided on a staff level will save time for staff, committees, Council and the applicant with the goal of more successfully encouraging the development of affordable housing; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The Asheville City Council hereby approves the adoption of an updated City of Asheville Fee Rebate Policy for Affordable Housing & Sustainability as shown on Exhibit A, attached hereto and incorporated herein by reference, and this new rebate program shall replace and supersede the prior Fee Rebate Grant adopted by Resolution No. 19-244 and the Council further authorizes the City Manager to take any action necessary to implement this program.

Read, approved and adopted this 27th day of July, 2021.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney

EXHIBIT A

City of Asheville Fee Rebate Policy for Affordable Housing & Sustainability

These policies and procedures were adopted by the Asheville City Council by Resolution # 21-XXX on July 27, 2021.

*****

Thank you for your interest in building and maintaining sustainable affordable homes for the households and families in Asheville. If you feel you qualify for a Fee Rebate based on this policy of affordability & sustainability, please submit an Application of Intent to DSD. Please see instructions for this under **Application Procedures**. This application should be submitted prior to or concurrently with the project's initial development application.

Please note that 100% of development fees must be paid upfront at the time of submittal and are rebated upon verification. In addition, this Application of Intent will trigger an **Expedited Review** from the Development Services Department (DSD) as long as the project meets qualifications.

By partnering with the City of Asheville, we hope to assist all developers fulfill their mission as well as ours by keeping Asheville a vibrant, sustainable and affordable place to live. If you should have any questions, or are interested in getting an estimate on savings for building affordable or energy efficient units, please contact:

Ben Woody
Director of Development Services (DSD)
City of Asheville
828.251.5679

FEE REBATES - Affordable Housing

Each qualifying affordable unit based on the requirements below will be eligible to receive a minimum of a 50% rebate of Development Fees. The City of Asheville will provide the grant to be rebated after the affordable unit(s) receives a certificate of occupancy & the income qualified tenant or homeowner occupies the unit and is verified by the City's Community Development Department.

Community Department contact for more information or questions:

Paul D'Angelo
Community Development Program Director
City of Asheville
828.251.4098

Affordable Housing Minimum Requirements to Qualify for 50% grant rebate on the affordable unit

- The proposed development must be within Asheville City limits.
- A rental project must serve individuals and households under 80% AMI for a minimum of 20 years.
- An Ownership project must serve individuals and households making under 80% AMI.
- A project can be either new construction or rehabilitation. The rehabilitation or redevelopment of a unit must be rented or sold serving the same or lower AMI individual or family as the original unit.
- At least 20% of the units (minimum of at least two affordable units) in the development must be affordable to qualify for the grant rebate, either rental or for sale.

In addition to the above, a grant rebate may be up to 75% on the affordable unit if -

- A rental project serves individuals and households under 60% AMI for a minimum of 20 years, or
- An ownership project sells to individuals and households making under 60% AMI, or
- 20% of the units are Universally Designed to make them accessible to all people, regardless of age, disability or other factors. Link here for more information as recommended by the North Carolina Housing Finance Agency (NCHFA).

In addition to the above, a grant rebate may be up to 100% on the affordable unit if -

- Developers offer permanent affordability in rental homes, or
- Developers offer permanent affordability on a for sale product, such as a Community Land Trust, or
- Affordability where at least 20% of the units target individuals & families under 30% AMI or those homeless or in danger of being homeless, i.e. taking an individual or family off the Homeless By-name List.

Area Median Income and Department of Housing & Urban Development (HUD) Resources

- Click here for "Appendix 1" for the Area Median Income (AMI) for the Asheville Metropolitan Area published annually by the Department of Housing & Urban Development
- For a For-sale product, Fee Rebates will be granted for Home prices that are at or below the suggested Department of Housing and Urban Development (HUD) HOME purchase price limit published annually and sold to income qualifying individuals or families. Those limits can be found here.

Eligible Development Fees for Rebate for Affordable Housing:

- Planning and Zoning
- Site Development
- Building Safety (plan review and permit fees)
- Fire
- Water Service Connection

Ineligible Development Fees for Rebate:

- Homeowner Recovery
- Reinspection or Resubmittal
- Technology
- Temporary Certificate of Occupancy
- Western North Carolina Air Quality Agency

Additional Guidance & Underwriting

For Sale Price: The eligibility for for-sale units shall be based on the purchase price of the unit with evidence of a closing statement and verified income eligibility of the buyer pursuant to City underwriting process. Households must have an annual income of 80% AMI or less depending on the Fee Rebate requested to qualify, with household expenses, including mortgage, taxes & insurance, totaling no more than 33% of the total gross household income.

Housing Types: All housing types will be considered, including rental units and homeownership units, condos, townhomes & single family homes. Other housing types may be considered upon request.

Post-Award: Compliance & Reporting

- Verification of income at initial lease-up is required, but no additional verification outside of the annual report is required as long as the qualified tenant remains in residence in the unit.
- An annual report to the City, providing both a complete rent roll, unit #, income and household size of income qualified tenants, is required. The City of Asheville's Community Development Department can assist if needed.
- When leases for qualified units terminate, the units must be leased to income-qualified tenants, with verification of income required, and for a rent that does not exceed the published maximum rent for the year in which the unit is being rented (known as Appendix 1).
- For lease renewals, the rent can not increase by more than 2.5% annually and must remain under that renewal year's current AMI rent guidelines as published in Appendix 1.
- The affordable unit must be made available within 60 days of the termination of the previous tenancy.
- The City of Asheville may, upon 10 days written notice, inspect the rent roll and household income verification records on site.
- If the project is out of compliance, it will have 30 days to cure the non-compliance.
- If the project remains out of compliance after 30 days, then the Fee Grant will become null and void and the previous fee grant funds awarded must be returned to the City within 60 days plus an additional 10%.

FEE GRANTS - Sustainability

The Sustainability Office offers **residential** building permit fee rebates for single family homes only to support a clean and healthy environment for the following:

Sustainability Rebate	Sustainable Action - Single Family Home
$500.00	Sustainability - Green Built Home Certified*
$250	Sustainability -Verified Home Energy Rating Index Score (HERS) of 49 or Below
$100	Sustainability - Energy Star Certified
$175.00	Solar Photovoltaic Systems
$100.00	Tree Protection (save)**
	Energy Savings Tree Plantings (new)***

*Only 1 discount per residential building in the shaded gray areas
**Applicable for at least one existing shade tree on the City's approved recommended species list that is 10" in diameter or larger as measured at DBH (list available upon request), $100 Fee Rebate total, or
***Applicable for at least one newly planted shade tree on the south or west side of the property, that is 2" in diameter or larger at the time of planting and that is on the City's approved recommended species list as a large maturing tree, $100 Fee Rebate total.

Additional / External Fee Rebates

The City of Asheville also offers incentives for affordable housing with our *Land Use Incentive Grant (LUIG)*, as well as access to our *Housing Trust Fund* and *City-owned land*. Please see our Community Development webpage here for more information.

Check with local utilities for consideration of other fees that can be potentially rebated and/or assist your development:

- The Buncombe County Metropolitan Sewerage District (MSD) offers an Affordable Housing Cost Recovery Reimbursement Program with a discount on your MSD fees for each affordable unit. Please contact Paul D'Angelo with the Community Development Department for more information. pdangelo@ashevillenc.gov / 828.251.4098
- Duke Energy Progress offers rebates and custom incentives to increase energy efficiency in your development.

Affordable Housing Fee Rebate Application Procedures

- Applications shall be in the form of a letter written to Ben Woody @ DSD (narrative).
- The application letter should indicate clearly how the project meets the grant eligibility requirements (see ... TO QUALIFY).
- The application letter should clearly indicate who the developer contact person is, and how that person can be contacted.
- The application letter must provide the PIN Number of the property to be developed.

- The application letter must provide an estimated start date for project construction, and an estimated date for project completion and issuance of all occupancy approvals.
- *The application must be accompanied with site plans.*
- Applications should be received at least 15 days before the applicable regularly scheduled Housing and Community Development (HCD) Committee meeting which are held the 3rd Tuesday of each month.
- The applicant should expect the application to be considered in four meetings open to the public: 1) at a regular meeting of the Housing and Community Development Committee; 2: at a regular meeting of the Finance & Human Resources Committee; 3) at a regularly scheduled City Council meeting, when a motion to hold a public hearing will be formally considered; 4) at a regularly scheduled City Council meeting when the public hearing will be heard, and the grant request will be formally considered by Council. Approval of a Fee Rebate Grant under this Policy requires a public hearing and approval by the City Council.
- Unless granted an exemption from the City Council for just cause shown, no new or updated Fee Rebate application, i.e. no Grant, will be allowed under this Policy for projects which have already received building permits.
- City staff will determine during your application if your project is eligible for fee rebates. Rebates are available on a first come first serve basis and determined based on the available budget. City Staff will issue your Fee Rebates upon final approval.
- If approved, City staff will prepare a Fee Rebate Agreement, to be reviewed by the City Attorney's Office, which will detail the specific terms of the grant, including, but not limited to:
    - An estimated grant amount, based upon the estimated Fee Rebates to be received and the Council approved Fee Grant. The actual grant amount will be derived from the percentage of qualified rebate and final fee totals.
    - The number of units that must be provided at affordable rental rates and the duration of time of affordability. (Affordability Agreement)
    - Monitoring criteria and provisions/penalties for non-compliance.

Fee Waivers

Certain Fees eligible for rebates as described above, may be waived upfront on a case by case basis based on a developer's affordable housing experience and demonstrated financial need of the project upon approval by City Council. Utility related fees cannot be waived. Additionally, in order to be eligible for a fee waiver, the developer must have a contractual obligation with the City to provide affordable housing (i.e. an affordable housing loan agreement with the City or some other type of agreement).

Fee Grant Availability

The city budgets **annually** for the affordable housing fee rebate program and for the sustainability fee rebate program. These programs are managed based on budget availability and City Council strategic goals. DSD will communicate upon contact the amount still available in the program.

Enforceability

If the Participant defaults in any of the Program Requirements of the Fee Grant Program, or, sells, assigns, transfers or conveys all or any part of the Property without notifying the City and submitting a release or transfer request prior to the end of the affordability period terms, then the City, at its option, may without further notice, declare the entire fee grant, together with all interest accrued thereon,

immediately due and payable with a 10% per annum penalty until paid. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time.

Authority and Purpose

This policy is approved pursuant to N.C. Gen. Stat. § 160A-456 and is intended to provide incentive grants (or appropriations) to encourage development projects that fulfill important public purposes in the City of Asheville. These public purposes include the following, which are also principal components of the City's annual strategic goals, vision and other adopted plans: 1) the development of affordable and workforce housing. This Policy will serve to, among other things, encourage the development of housing for persons of low and moderate income, per N.C. Gen. Stat. § 160A-456.