

O-2023-30

AN EMERGENCY ORDINANCE

TEMPORARILY ENACTING AND ENFORCING A NONRENEWABLE ANTI-GROWTH LAW FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT

WHEREAS, On July 2, 2019, the voters of the City of Lakewood approved a Citizen Initiative adopting Residential Growth Limitations, originally known as Strategic Growth Ordinance, which established a building permit management system that limits residential growth in the City to no greater than one percent (1%) per annum;

WHEREAS, reference to the term "anti-growth law" was included in the Ordinance to mirror the applicable statute but not to label the City's Strategic Growth Ordinance as anti-growth;

WHEREAS, On June 7, 2023, Colorado Governor Jared Polis signed House Bill 23-1255 (later codified at C.R.S. § 29-20-104.2), a "*Bill for an Act Concerning Preemption of Local Regulations Limiting the Number of Building Permits Issued for Development*", such legislation finding that local anti-growth laws may serve to impact housing development in the cities that adopted such laws as well as impacting surrounding communities, such law becoming effective on August 8, 2023;

WHEREAS, C.R.S. § 29-20-104.2(4)(a)(II) provides that "*A governmental entity may enact and enforce a temporary, nonrenewable anti-growth law for the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development*";

WHEREAS, C.R.S. § 29-20-104.2(4)(b) provides that "*a temporary, nonrenewable anti-growth law affecting property allowed by subsection (4)(a) of this section may be effective for no more than twenty-four months in any five-year period*";

WHEREAS, The Residential Growth Limitation Ordinance has served as the primary tool of the City of Lakewood for controlling development most recently by encouraging the development of affordable housing within the City, and moving away from such a law to a new land use law that meets the needs of the City of Lakewood and complies with this new State law will take time and planning;

WHEREAS, Temporarily enacting and enforcing the Residential Growth Limitations Ordinance for a period of time not to exceed twenty-four (24) months is a reasonable approach to allow the City to research, prepare, and, if appropriate, adopt and implement new land use plans or land use laws covering residential development or the residential component of a mixed-use development is in the immediate legal and fiduciary interests of the citizens of the City of Lakewood but does not waive any rights as set forth within Article XX, Section 6 of the Colorado Constitution establishing Home Rule authority;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City of Lakewood hereby enacts a temporary, nonrenewable anti-growth law for the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development for a term not to exceed twenty-four months from the effective date of this Ordinance, with the intent that such new land use plan may be incrementally enacted, but will be fully enacted within twenty-four months from the effective date of this Ordinance, such temporary, nonrenewable anti-growth law attached hereto and incorporated herein. And, no such action shall be understood to be a waiver of any right guaranteed to the City of Lakewood in accordance with Article XX, Section 6 of the Colorado Constitution establishing Home Rule.

SECTION 2. The City Manager, or designee, is hereby authorized to enact such administrative orders as are necessary and appropriate to carry out Section 1 of this Ordinance.

SECTION 3. Emergency Declaration. In accordance with Lakewood Municipal Charter 7.4(b) the City Council of the City of Lakewood hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety for the reasons enumerated in the recitals and body of this ordinance, all of which are incorporated into this Section 3 by reference. The City Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the City of Lakewood, but if this ordinance is not adopted by an affirmative vote of two-thirds of all members of the City Council (eight members) it may still be passed as a regular ordinance in conformance with the provisions of Lakewood City Charter § 7.4.

SECTION 4. The provisions of this Ordinance shall be retroactive to August 8, 2023.

SECTION 5. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.


I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 24th day of July, 2023; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 27th day of July, 2023; set for public hearing to be held on the 7th day of August, 2023; read, finally passed and adopted by the City Council on the 7th day of August, 2023; and signed by the Mayor on the 8th day of August, 2023.





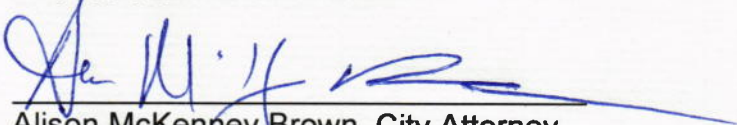
Adam Paul, Mayor

ATTEST:



Jay Robb, City Clerk

APPROVED AS TO FORM:



Alison McKenney Brown, City Attorney