

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2022

COUNCIL BILL NO. CB22-XXXX
COMMITTEE OF REFERENCE:

Safety, Housing, Education & Homelessness

A BILL

For an ordinance enacting a new article XII, chapter 27 of the Denver Revised Municipal Code to establish prioritization requirements for income-qualified households in certain income-restricted affordable housing.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That Chapter 27 of the Denver Revised Municipal Code shall be amended by the addition of a new Article XII, to read as follows:

ARTICLE XII. PRIORITIZATION OF INCOME-RESTRICTED AFFORDABLE HOUSING

Sec. 27-241 – Legislative Findings

(a) The city council has determined that Denver is experiencing an unprecedented escalation in housing costs, and thus a critical lack of housing opportunities for households with low- and moderate-incomes.

(b) Between 2010 and 2020, Denver grew by over 100,000 people. The growth has challenged the housing market and the supply of affordable housing. Denver’s growth has led to a significant increase in both rental and home sale prices, as housing supply has struggled to keep up with demand.

(c) Between 2010 and 2019, households earning less than sixty percent (60%) of area median income declined by 10,500, an indication of low- and moderate-income household displacement from Denver.

(d) As of 2019, thirty-five percent (35%) of all households in Denver are housing cost burdened, meaning they pay more than thirty percent (30%) of their gross income on housing costs. That problem is particularly prevalent among lower-income households. Eighty-one percent (81%) of households earning less than sixty percent (60%) of area median income are housing cost burdened, meaning they pay more than thirty percent (30%) of their gross income on housing costs.

(e) The Metro Denver area’s 2019 Regional Analysis of Impediments to Fair

1 Housing Choice study indicated that about thirty percent (30%) of Denver renters
2 responding to the survey had been displaced between 2012 and 2017, with the most
3 common reasons for involuntary displacement being rent increasing more than a
4 household could afford, a landlord selling the rental unit, and a landlord refusing to renew
5 a lease. It is often low- and moderate-income households that experience involuntary
6 displacement.

7 (f) Preference or prioritization policies in cities such as San Francisco, Austin,
8 and Portland have helped mitigate involuntary displacement by prioritizing subsets of
9 income-eligible households for income-restricted affordable units.

10 **Sec. 27-242 – Purpose**

11 The purpose of this article is to establish a system to ensure that at least thirty
12 percent (30%) of income-restricted affordable units at applicable housing projects are
13 made available on a prioritized basis to households that have been displaced or are
14 vulnerable to involuntary displacement from Denver. The city council is committed to
15 affirmatively furthering fair housing, which includes increasing affordable housing
16 options, ending segregation and discrimination, and addressing involuntary
17 displacement.

18 **Sec. 27-243 – Definitions**

19 The following words and phrases, as used in this article, have the following
20 meanings:

21 (a) *Affordable rental unit* means a dwelling unit that must be made available at
22 an affordable rent and occupied by an income-qualified household.

23 (b) *Affordable ownership unit* means a dwelling unit that must be made
24 available for purchase at an affordable price to an income-qualified household.

25 (c) *Affordable unit* means an affordable rental unit or an affordable ownership
26 unit.

27 (d) *Applicable housing project* means (i) any project that receives funding from
28 the city for the purpose of creating or preserving affordable units; (ii) any project that is
29 subject to a build alternative plan or other agreement with the city where affordable units
30 must be provided; or (iii) a residential development or high impact development, as those
31 terms are defined in section 27-219, that provides income-restricted units pursuant to

1 chapter 27, article X, if (a) the project, regardless of the number of dwelling units, is
2 located in an area vulnerable to displacement, or (b) the project contains a minimum of
3 one hundred (100) dwelling units. The term applicable housing project excludes any
4 supportive housing project.

5 (e) *Area vulnerable to displacement* means neighborhoods identified as
6 meeting all three (3) indicators as defined in Appendix C- Key Equity Concepts
7 Methodology of Blueprint Denver, a supplement to the city's comprehensive plan. In the
8 event that the methodology or data source is substantially changed, renamed, or
9 abandoned by the department of community planning and development, then in its place
10 shall be substituted a methodology that most closely resembles the original intent as
11 determined by the executive director of the department of community planning and
12 development.

13 (f) *Director* means the executive director of HOST or the director's designee.

14 (g) *Displaced or vulnerable to displacement* means an individual or household
15 (i) who is or was rent or mortgage burdened; (ii) who is or was required to move from a
16 rental unit because the property owner is selling or has sold the rental unit; (iii) who is or
17 was required to move from a rental unit because the owner is moving into the unit; (iv)
18 who is being or has been evicted without cause or for nonpayment of rent; (v) whose
19 primary residence is subject to a foreclosure proceeding or whose primary residence
20 was sold pursuant to a foreclosure sale; (vi) whose primary residence requires or
21 required costly repairs to address property code violations; (vii) who is or was a resident
22 of a redlined neighborhood; or (viii) whose primary residence is being or was taken
23 through eminent domain.

24 (h) *Eligible household* means a household where one or more individuals in the
25 household (i) were displaced from their residence in Denver any time after the year 2000,
26 are vulnerable to displacement from their residence in Denver, or have a direct family
27 member that was displaced from Denver between 1939 – 2000 and (ii) has been certified
28 by HOST as eligible to participate in the prioritization program.

29 (i) *HOST* means the department of housing stability or its successor.

30 (j) *Prioritized unit* means an affordable unit subject to the prioritization
31 requirement that must be provided to an eligible household as required by this article.

1 **Sec. 27-244 – Prioritization Program.**

2 (a) *Application of Prioritization Program.*

- 3 (1) Except to the extent prohibited by applicable law or State or Federal
4 funding sources, at least thirty percent (30%) of affordable units in an
5 applicable housing project must be provided to eligible households in
6 accordance with this article and all rules and regulations adopted by
7 the director. In calculating the number of prioritized units required
8 pursuant to this section, rounding shall be used such that one-tenth
9 (0.1) or greater shall result in requiring that a whole unit be set aside
10 as a prioritized unit.
- 11 (2) The prioritization requirements of this section apply to (i) affordable
12 ownership units only at the time of first sale of an affordable ownership
13 unit; and (ii) affordable rental units for the duration of the underlying
14 term of affordability. Prioritized units in a rental housing project may
15 float among units during the underlying term of affordability.
- 16 (3) Prioritized units must be (i) interspersed among other dwelling units
17 and affordable units; (ii) proportionate to the number of bedrooms of
18 other dwelling units and affordable units; and (iii) compliant with all
19 rules and regulations adopted by the director; provided, however, that
20 to the extent this requirement conflicts with similar Federal laws, rules,
21 or regulations regarding mixed-income units within affordable housing
22 projects, such Federal laws, rules, or regulations shall prevail.
- 23 (4) The prioritization requirements are intended to have a prospective
24 effect only and shall not apply to projects funded, affordable housing
25 plans or similar forms of negotiated agreements approved, or
26 affordable units existing prior to July 1, 2024.

27 (b) *Eligibility Standards; Application; List of Eligible Households.*

- 28 (1) For a household to be qualified to participate in the prioritization
29 program, at least one individual in the household must be able to
30 demonstrate to HOST that (i) they were displaced from a residence in
31 Denver any time after the year 2000, (ii) they are vulnerable to

1 displacement from its residence in Denver, or (iii) a direct family
2 member was displaced from Denver between 1939 – 2000.

3 (2) An individual must apply to HOST to be qualified as an eligible
4 household. An individual's application must contain sufficient
5 documentation for HOST to verify that the individual was displaced, is
6 vulnerable to displacement, or has a family member that was displaced
7 between 1939 - 2000. An entire household is entitled to participate in
8 the prioritization program if at least one individual of that household
9 meets the eligibility criteria.

10 (3) HOST will maintain a list of eligible households.

11 (4) Eligible households must also meet the income eligibility requirements
12 for a particular prioritized unit and any lawful and reasonable
13 requirements imposed by an owner of an applicable housing project.

14 (c) *Order of Priority of Eligible Households.* The director shall develop a
15 scoring system to manage and establish priority of eligible households. The scoring
16 system shall be used solely to determine the ranked order of eligible households for a
17 prioritized unit.

18 (d) *Marketing to Eligible Households.*

19 (1) Prioritized units must first be offered solely to eligible households in
20 accordance with the procedures specified by HOST in rules and
21 regulations. Owners of applicable housing projects must use good
22 faith efforts to identify and enter into contracts or leases with eligible
23 households that are also income-qualified for the particular prioritized
24 unit. Prioritized units must be open and marketed to eligible
25 households for a minimum of fourteen (14) business days prior to
26 being offered for sale or rent to other income-qualified households.

27 (2) An owner of an applicable housing project that contains affordable
28 ownership units may seek a waiver from the director of the requirement
29 to market affordable ownership units to eligible households. The
30 director may grant a waiver if the owner can demonstrate that the
31 owner meets the intent and requirements of this article through the

1 owner's typical marketing and business practices. An owner granted
2 a waiver of the requirement to market affordable units to eligible
3 households must still submit reports pursuant to section 27-245 and
4 any rules and regulations.

5 **Sec. 27-245 – Monitoring; Reporting.**

6 (a) *Owner's Reporting Requirements.* Owners of applicable housing projects
7 must submit to HOST reports as required by the rules and regulations promulgated
8 pursuant to this article.

9 (b) *HOST Reporting on Prioritization Program.* HOST will report on the results
10 of the prioritization program beginning one year after the prioritization program is
11 implemented and annually thereafter. The report shall include the following data:

- 12 (1) the number of eligible households that rented or purchased a
13 prioritized unit;
- 14 (2) the number of eligible households that have been qualified by HOST
15 but have not yet rented or purchased a prioritized unit;
- 16 (3) the total number of prioritized units that were set aside during the
17 reporting period;
- 18 (4) the number of prioritized units that were set aside during the reporting
19 period but not sold or rented to an eligible household; and
- 20 (5) the total number of individuals submitting applications during the
21 reporting period and a breakdown of the application outcome,
22 including whether the application was approved, denied, or pending.

23 **Sec. 27-246 – Rules and Regulations; Enforcement**

24 (a) The director is authorized to promulgate rules and regulations necessary to
25 implement and administer this article. The rules and regulations may include a schedule
26 or range of civil penalties that may be imposed against any person that violates any
27 provision of this article or the rules and regulations.

28 (b) HOST shall have the authority to enforce the requirements of this article.

29 **Secs. 27-247 through -249 – Reserved.**

30 **Section 2. Effective date.** This ordinance shall take effect on July 1, 2024.

DRAFT

1 COMMITTEE APPROVAL DATE: TBU
2 MAYOR-COUNCIL DATE: TBU
3 PASSED BY THE COUNCIL: _____,
4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____,
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____,

10 PREPARED BY: Eliot C. Schaefer, Assistant City Attorney DATE: TBU

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15
16 Kristin M. Bronson, Denver City Attorney

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18 BY: _____, Assistant City Attorney DATE: _____,

