



Legal Notice

Date: 10/20/2022

Subject: An ordinance of the City of Littleton, Colorado, repealing and reenacting Chapter 2, to be named Inclusionary Housing, to Title 4 Building Regulations.

Passed/Failed: Passed on first reading on 10/18/2022

CITY OF LITTLETON, COLORADO

**ORDINANCE 27
SERIES 2022**

47 and majority affordable residential developments.

48

49 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF**
50 **THE CITY OF LITTLETON, COLORADO, THAT:**

51

52 **Section 1:** Chapter 2, Housing Code of Title 4, Building Regulations of the
53 Littleton City Code is hereby repealed and reenacted as follows:

54 **CHAPTER 2: INCLUSIONARY HOUSING**

55 **4-2-1: Legislative Purpose.**

56 (a) The City Council hereby finds that various studies and findings performed for the
57 City of Littleton and in the Denver metro area show a lack of housing that is being built to
58 serve persons of all income levels as envisioned in our comprehensive plan and City
59 Council goals.

60 (b) Current development trends do not serve a large segment of our population who
61 desire to live and work in our city and who are from low- and moderate-income households.

62 (c) Numerous factors including market conditions, continued population growth in the
63 region, unmet demand for new housing, and a lack of economic incentives for developers
64 or requirements for developers to offer housing for those low- and moderate-income
65 households.

66 (d) The City wishes to provide incentives and/or requirements for the development
67 community to help meet some of these Council and community goals to allow for more
68 attainable housing options both for rent and for sale.

69 (e) In compliance with HB 21-1117, the City has demonstrated the following actions
70 to increase the overall number and density of housing units within the city:

71 (1) Changing its zoning regulations to increase the number of housing units
72 allowed on a particular site;

73 (2) Promoting mixed-use zoning that permits housing units be incorporated in
74 a wider range of developments;

75 (3) In certain zones, permitting more than one dwelling unit per lot in traditional
76 single-family lots;

77 (4) Increasing the permitted household size in single-family homes;

78 (5) Promoting denser housing development near transit stations and places of
79 employment;

80 (6) Granting reduced parking requirements to residential or mixed-use
81 developments that include housing near transit stations or affordable housing
82 development;

83 (7) Granting density bonuses to development projects that incorporate
84 affordable housing units;

85 (8) Materially reducing or eliminating certain utility charges, regulatory fees,
86 or taxes imposed by the city applicable to affordable housing units; and

87 (9) Granting affordable housing development material regulatory relief from
88 any type of zoning or land development regulations that would ordinarily restrict
89 the density of new development.

90 (f) Encourage the construction of new affordable housing units alongside market rate
91 housing units within mixed income residential developments by offering incentives to
92 increase the overall supply and availability of housing;

93
94 (g) Provide property owners or land developers with alternatives to the construction of
95 new affordable housing units as required by HB 21-1117;

96
97 (h) Implement the comprehensive plan goal to create a Littleton that's equitable,
98 affordable, and inclusive;

99
100 (i) Increase the availability of additional low- and moderate-income housing to address
101 existing and anticipated future housing needs of the workforce in Littleton and the unmet
102 needs of residents in Littleton; and

103
104 (j) Ensure diverse housing options continue to be available for households earning at
105 or below the area median income; and

106
107 (k) Adopting mandatory provisions for inclusionary housing while providing
108 reasonable alternatives and incentives for developers to achieve these goals.

109
110 **4-2-2: Definitions.**

111

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

113

114 (a) *Adjacent* means being in close proximity. Properties that are directly across a public
115 right-of-way or access easement are adjacent.

116 (b) *AMI* or *area median income* means the median income for the Denver metropolitan
117 area, adjusted for household size, as calculated by the U.S. Department of Housing and
118 Urban Development.

- 119 (c) *Affordable housing development* means a residential development that focuses on or
120 includes as a major portion of the development permanent measures to address the
121 housing needs of lower- or middle-income households.
- 122 (d) *Affordable for sale* unit mean a unit or dwelling unit required to be affordable per this
123 ordinance for those making less than 80% of the AMI.
- 124 (e) *Affordable rental unit* means a unit or dwelling unit required to be affordable per this
125 ordinance for those making less than 60% of the AMI.
- 126 (f) *Applicant* means any person, firm, partnership, association, joint venture, corporation,
127 or any other entity or combination of entities, or affiliated entities and any transferee of
128 all or part of the real property at one location that submits an application for a project
129 that would provide a total of five (5) or more new dwelling units at one location in
130 Littleton.
- 131 (g) *At one location* means all real property under common ownership or control by the
132 applicant if:
- 133 (1) The properties are contiguous at any point;
- 134 (2) The properties are separated only by a public or private right-of-way or utility
135 corridor right-of-way, at any point; or
- 136 (3) The properties are separated only by other real property owned by the applicant
137 which is not subject to this article at the time of any building permit(s), site
138 development plan, subdivision, or other zoning development application by the
139 applicant.
- 140 (h) *Building permit* means any residential or commercial construction permit issued for the
141 construction of any structure, foundation and/or superstructure or any similar term used
142 to issue permits for such work as the terminology may be modified by the city's
143 building department. A building permit does not include permits for shoring or
144 excavation and any associated permits for such work as electrical, mechanical,
145 plumbing or similar permits.
- 146 (i) *Comprehensive plan* means the Envision Littleton Comprehensive Plan adopted
147 October 15, 2019 as may be amended, or its successor.
- 148 (j) *CPI-U or Consumer Price Index* means the United States Department of Labor
149 Statistics (Bureau of Labor Statistics) Consumer Price Index for All Urban
150 Consumers, All items, for the Denver-Aurora-Lakewood Colorado area (1982-
151 84=100). In the event that the CPI-U is substantially changed, renamed, or abandoned
152 by the United States Government, then in its place shall be substituted the index
153 established by the United States Government that most closely resembles the CPI-U,
154 as determined by the city's finance director.
- 155 (k) *DMU/DMU3* means Downtown Mixed Use shall have the same meaning as set
156 forth in the City's land use code.

- 157 (l) *Dwelling unit, including dwelling, multi-family, single-family attached / duplex*
158 *and single-family detached* shall have the same meaning as defined in the City's
159 land use code.
- 160 (m) *On-site* means at the same location of a residential development.
- 161 (n) *Qualified resident* means an individual or family who earns an annual income that
162 does not exceed eighty percent (80%) of the AMI for sale properties, or does not
163 exceed sixty percent (60%) for rentals, and who occupies or will occupy a
164 residential unit as their principal place of residence.
- 165 (o) *Rental development* means a residential development where dwelling units are
166 offered for rent.
- 167 (p) *Residential development* means the development of single-family detached
168 residences, townhomes, duplexes, condominiums, apartments or multi-family
169 dwellings as those terms are commonly understood or defined under the City's
170 unified land use code and:
171 means any project that would create five (5) or more new dwelling units at one
172 location by: (i) the construction or alteration of structures; or (ii) the conversion of
173 a use within an existing structure to a residential use from any other non-
174 residential use. If a project has both residential and non-residential uses, the
175 residential portion of a project shall be considered a residential development if it
176 would create five (5) or more new dwelling units.
- 177 (q) *Residential unit* means a dwelling unit of four hundred (400) square feet or more
178 containing sleeping, kitchen and bathroom facilities, designed for and used or
179 held ready for use as a permanent residence by one (1) family.
- 180 (r) *Restricted unit* means a residential unit that is deed restricted or by rental
181 covenant as provided in this chapter, and priced at initial sale and resale to be
182 affordable to qualified residents for thirty (30) years from the date of issuance of a
183 certificate of occupancy.
- 184 (s) *Tier 1 Inclusionary Housing Requirements* are those requirements that are
185 mandatory for all residential developments that create five (5) or more dwelling
186 units that are not considered Tier 2 projects.
- 187 (t) *Tier 2 Projects* are residential development projects that consist of at least five (5)
188 dwelling units whereby at least fifty percent (50%) of rental units are affordable
189 to those making no more than sixty percent (60%) of the AMI, or those for-sale
190 units are affordable who are making no more than eighty percent (80%) of the
191 AMI.
- 192 (u) *Townhouse* shall have the same meaning as defined in the City's adopted land use
193 and zoning code.

194 **4-2-3: Applicability:**

195 (a) The requirements of this Chapter apply to all new residential development with five
196 (5) or more units in the City regardless of whether units are to be sold individually or
197 retained and otherwise leased or rented for residential use.

198 (b) Affordable housing developments or residential housing developments constructed
199 or operated by any local or regional housing authority or an entity that qualifies for a tax
200 exemption under C.R.S. § 29-4-507 or C.R.S. § 29-4-227 are exempt from this Chapter.
201

202 (c) It is the intent of City Council that when there is a chapter, section, requirement, or
203 variance within this Chapter that may be directly in conflict with the City's land use code,
204 that this Chapter controls subject to the reasonable interpretation of the City Manager.
205

206 **4-2-4: Tier 1 Inclusionary housing requirements.**
207

208 (a) Number. New residential developments of five (5) or more units shall include at
209 least five percent (5%) of the new residential units as affordable units, rounded up.
210

211 (b) Affordability Requirements for Rental Units. Those five percent (5%) of affordable
212 units shall be rented to those individuals whose earnings do not exceed sixty percent (60%)
213 of the AMI.
214

215 (c) Affordability Requirements for "For Sale" Units. Those five percent (5%) of
216 affordable units that are available for sale, shall be affordable to those whose earnings do
217 not exceed eighty percent (80%) of the AMI.
218

(d) Fee in Lieu.

219 (1) Applicants for residential developments containing a range of five (5) to
220 nineteen (19) total units may pay a fee in lieu to the City for each required
221 affordable unit. Said fee shall be established by City Council by resolution during
222 annual fee adoptions or at such time as may be determined by City Council.
223

224 (2) Applicants for residential developments of twenty (20) or more total units
225 may pay a fee in lieu to the City for each required affordable unit. Said fee shall
226 be established by City Council by resolution during annual fee adoptions or at such
227 time as may be determined by City Council.
228

229 (3) It is the intent of City Council that the fee in lieu be calculated based on
230 seventy-five percent (75%) of the development cost method to construct affordable
231 units as determined after market evaluation and adjusted annually by CPI for those
232 residential development of twenty (20) or more units, the fee in lieu calculated
233 based on fifty percent (50%) of the development cost method to construct
234 affordable units as determined after market evaluation and adjustment annually by
235 CIP for those residential developments units between five (5) and nineteen (19)
236 units.

237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280

(4) Payment of the fee in lieu shall be made to the City prior to the issuance of any building permits for the residential development.

(5) Funds collected from fees in lieu shall be used by the City for the purposes of planning for, subsidizing, acquisition of properties for, or developing affordable housing in partnership with other organizations and developers whose interest is to provide these housing options.

4-2-5: Tier 1 Inclusionary Housing Incentives.

For those qualifying residential developments that choose to construct affordable units en lieu of fee-in-lieu the following incentives shall apply.

- (a) The City shall expedite any application seeking to provide affordable housing as set forth in this Chapter.
- (b) Required Parking as set forth in the City’s land use code may be reduced by an additional twenty-five percent (25%) for those projects within one-quarter mile of a transit station.
- (c) Open Space requirements as set forth in the City’s land use code may be reduced up to fifty percent (50%) if the location is within one-quarter mile of a City park or designated open space with no need to demonstrate hardship.
- (d) An allowable increase of fifteen percent (15%) in dwelling units per acre for single family, multi-family, duplex, and townhome projects for all residential districts.
- (e) Administrative adjustments as set forth in the City’s land use code to allow for twenty-five percent (25%) reduction on minimum lot requirements as opposed to the current ten percent (10%).
- (f) Permit fee rebate of \$2,500 per unit for affordable units built not to exceed fifty percent (50%) of the total city permit fee obligation.
- (g) Reduction in required neighborhood meetings from two to one.

4-2-6: Tier 2 Inclusionary Housing Incentives.

Tier 2 Inclusionary Housing Incentives shall only apply to those residential developments of which the majority of units for sale are affordable for those making no more than eighty percent (80%) of the AMI or residential developments of which the majority of units for rental units are affordable for those making no more than sixty percent (60%) of the AMI,

281 or twenty-five percent (25%) of for sale units affordable to one hundred percent (100 AMI
282 in duplex, triplex, quadplex, townhome, or cottage court communities.

283
284 (a). The City shall expedite any application seeking to provide affordable housing as set
285 forth in this Chapter.

286
287 (b) Required Parking as set forth in the City's land use code may be reduced by thirty-five
288 percent (35%) in addition to those parking reductions that apply to developments within
289 one-quarter mile of a transit station.

290
291 (c) Open Space requirements as set forth in the City's land use code may be reduced up to
292 fifty percent (50%) if the location is within one-quarter mile of a City park or
293 designated open space without the need to demonstrate hardship.

294
295 (d) An allowable increase of fifteen percent (15%) in dwelling units per acre for single
296 family, multifamily, duplex, and townhome projects for all residential districts.

297
298 (e) Administrative adjustments as set forth in the City's land use code, may allow for a
299 twenty-five percent (25%) reduction on minimum lot requirements as opposed to the
300 current ten percent (10%).

301
302 (f) Administrative approvals will be allowed by the Community Development Director of
303 Master Development Plans (MDPs) where projects include a majority of inclusionary
304 housing are constructed as set forth in this chapter.

305
306 (g) Permit fee rebate of \$2,500 per unit for affordable units built not to exceed fifty percent
307 (50%) of the total city permit fee obligation.

308
309 (h) If within the DMU or DMU3 zoning district an allowable increase of stories to five (5)
310 provided the overall height as measured in the City's land use code does not exceed
311 fifty-five feet (55ft) may be allowed.

312
313 (i) Residential developments in Tier 2 may use the equivalent density of the next
314 residential district that is adjacent to the proposed development.

315
316 (j) A reduction in minimum lot size by twenty-five percent (25%) may be allowed.

317
318 (k) Reduction in required neighborhood meetings from two to one.

319
320

321 **4-2-7. Quality, Size, and Amenities of Affordable Units.**

322
323 (a) Quality of Units. Affordable units shall be of comparable quality, design and
324 materials to the market units creating the inclusionary housing obligation and constructed

325 with durable materials that promote sustainable, energy efficiency and attractive affordable
326 housing.

327
328 (b) Size of Affordable Dwelling Units: Units shall be sized in relation and proportion
329 to other units in the development and reflect the type of units that are being constructed in
330 the previous year and are sized to meet unmet community needs.

331
332 (c) Affordable Owner and Renter Access to Amenities: When affordable units are
333 provided on-site in any location or configuration, the affordable owners and renters shall
334 have access equal to that of the owners and renters of the market units. Such amenities shall
335 include but not be limited to; parks, outdoor play areas, pools, exercise facilities and
336 equipment, dog washing rooms, bicycle repair facilities, cafes, and similar on-site
337 amenities.

338
339 **4-2-8. Relationship of Affordable Units to Market Units.**

340
341 (a) Purpose: Affordable housing shall be comparable in quality, design and general
342 appearance to the market units creating the inclusionary housing obligation.

343
344 (b) Attached and Detached Dwelling Units: When a development contains a mix of
345 both single-family attached and detached dwelling units, a proportional number of the
346 required affordable dwelling units shall also be single-family detached dwelling units.

347
348 (c) Mixed Dwelling Unit Types: In developments with a mixture of dwelling unit
349 types, including, without limitation, single family detached dwelling units, townhomes,
350 duplex, triplex, and multifamily, the required affordable dwelling units shall be comprised
351 of the different dwelling unit types in the same proportion as the dwelling units that are not
352 permanently affordable within the development.

353
354 (d) Number of Bedrooms and Bathrooms: Affordable units shall have the same
355 proportion of studio, one-, two-, three- and four-bedroom dwelling units as in its market
356 rate dwelling units.

357
358 **4-2-9. Location and Timing.**

359
360 Except as otherwise provided in this Chapter, affordable dwelling units shall be provided as
361 follows:

362
363 (a) Location of For Sale or For Rent Affordable Units: For sale or For rent affordable
364 units shall be distributed evenly throughout the development to achieve integration and
365 avoid concentration or segregation of the affordable households

366

367 (b) Timing of Construction: The construction of on-site affordable dwelling units in
368 any development shall be timed such that the units shall be constructed and pass final
369 inspection concurrently or prior to the market-rate dwelling units in that development.
370

371 (c) Timing of Marketing: On-site affordable dwelling units shall be marketed
372 concurrently with or prior to the market-rate dwelling units in that development.
373

374 **4-2-10. All Inclusionary Housing Technical Requirements.**
375

376 (a) Income Eligibility Required: No person shall sell, rent, purchase or lease an
377 affordable dwelling unit created pursuant to this Chapter except to a qualified resident. All
378 sales, rentals, purchases and leases shall comply with the provisions of this Chapter.
379

380 (b) Deed restriction or Rental Covenant. Each restricted unit shall be subject to a deed
381 restriction or rental covenant in a form approved by the City as necessary to carry out the
382 purpose of this Chapter, and no permits shall be issued for the residential development until
383 the required deed restrictions or rental covenants have been executed. The duration of any
384 deed restriction or rental covenant shall be no less than thirty (30) years.
385

386 (c) Good Faith Marketing Required: All sellers or owners of permanently affordable
387 dwelling units shall engage in good faith marketing and public advertising efforts each time
388 a permanently affordable dwelling unit is rented or sold such that members of the public
389 who are qualified to rent or purchase such units have a fair chance to become informed of
390 the availability of such units.
391

392 (d) Required Agreements: Those applicants creating residential developments shall
393 enter into an affordable housing agreement with the City and shall execute such restrictive
394 covenants and additional agreements, in a form acceptable to the City, as necessary to carry
395 out the purposes of this Chapter. Such agreements shall be on a form provided by the City
396 and shall document how the applicant will meet the requirements of this Chapter. The
397 applicant shall provide all documentation and any other material requested by the City. An
398 applicant shall not be eligible to submit for a building permit until the affordable housing
399 agreement and any required restrictive covenants are approved by the City.
400

401 (e) Residency Requirement: No single owner or renter of an affordable dwelling unit
402 shall fail to occupy the rented or purchased dwelling unit as a primary residence.
403

404 **4-2-11. Sale or lease of restricted units.**
405

406 (a) No person offering a restricted unit for rent or sale shall fail to disclose the deed
407 restriction required by this Chapter.
408

409 (b) No person shall sell, rent, purchase, or lease a restricted unit except to a qualified
410 resident.

- 411
412 (c) The maximum sales price for a restricted unit shall be set no higher than at a price
413 affordable to households earning eighty percent (80%) of AMI.
414
415 (d) The rental rate for a restricted unit shall be set no higher than at a price affordable
416 to households earning sixty percent (60%) of AMI.
417
418 (e) Restricted units shall not be rented for a period of less than thirty (30) consecutive
419 days.
420
421 (f) Restricted units shall be continuously occupied by a qualified household and shall
422 not remain vacant for more than ninety (90) consecutive days unless reasonable and
423 documented efforts to occupy the restricted unit are unsuccessful.
424
425 (g) The owner of a restricted unit is solely responsible for verifying the eligibility of a
426 tenant as a qualified resident, and may require the prospective tenant to provide the
427 following information on an application to be provided by the owner of a restricted
428 unit:
429
430 (1) Verification (e.g., wage stubs, tax return, W-2 or other appropriate
431 documentation) of the tenant's AMI;
432
433 (2) A valid form of identification, such as a driver's license, state-issued
434 identification, passport or military identification;
435
436 (3) Any other documentation which the owner deems necessary to make a
437 determination of eligibility; and
438
439 (4) A signed statement certifying and acknowledging: that all information
440 submitted in such application is true to applicant's best knowledge; that the
441 applicant understands that they may not sublet the restricted unit; that the
442 applicant authorizes the owner to verify any and all past or present
443 employment, financial and residency information and all other information
444 submitted by an applicant; and that applicant has read and understands the
445 deed restriction.
446

447 **4-2-11. Violation and Penalty**
448

- 449 (a) It is unlawful to operate a restricted unit in violation of this Article, and violations
450 shall be punishable as set forth in 1-4-1 of this Code. Each day of violation Shall be deemed
451 a separate offense.
452
453 (b) In addition to the remedies provided by this Code, the City shall have any and all
454 remedies provided by law and in equity for a violation of a deed restriction, including

455 without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including
456 without limitation an injunction requiring eviction of the occupant(s) and an injunction to
457 prohibit the occupancy of the restricted unit in violation of the deed restriction.
458

459 **Section 2:** Severability. If any part, section, subsection, sentence, clause or
460 phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the
461 validity of the remaining sections of this ordinance. The City Council hereby declares that it would
462 have passed this ordinance, including each part, section, subsection, sentence, clause or phrase
463 hereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or
464 phrases may be declared invalid.
465

466 **Section 3:** Repealer. All ordinances or resolutions, or parts thereof, in conflict
467 with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer
468 clauses of such ordinance nor revive any ordinance thereby.
469

470
471 INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council
472 of the City of Littleton on the 18th day of October, 2022, passed on first reading by a vote of 5
473 FOR and 0 AGAINST; and ordered published by posting at Littleton Center, Bemis Library,
474 the Municipal Courthouse and on the City of Littleton Website.

475 PUBLIC HEARING on the Ordinance to take place on the 1st day of November,
476 2022, in the Council Chambers, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado,
477 at the hour of 6:30 p.m., or as soon thereafter as it may be heard.
478

479 PASSED on second and final reading, following public hearing, by a vote of _____ FOR
480 and _____ AGAINST on the 1st day of November, 2022 and ordered published by posting at
481 Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

482 ATTEST:

483 _____
484 Colleen L. Norton
485 CITY CLERK
486

Kyle Schlachter
MAYOR

487 _____
488 Reid Betzing
489 CITY ATTORNEY

