



Legal Notice

Date: 11/03/2022

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 second reading and public hearing on 11/01/2022

CITY OF LITTLETON, COLORADO

**ORDINANCE 27
SERIES 2022**

CITY OF LITTLETON, COLORADO

ORDINANCE NO. 27

Series, 2022

**AN ORDINANCE OF THE CITY OF LITTLETON, COLORADO,
REPEALING AND REENACTING CHAPTER 2 TO BE NAMED,
INCLUSIONARY HOUSING, TO TITLE 4 BUILDING REGULATIONS**

WHEREAS, in 2017, the city commissioned a housing study to analyze the housing needs in the City of Littleton; and

WHEREAS, this housing study identified numerous housing gaps and needs within the City of Littleton; and

WHEREAS, trends identified in the 2020 update of the Littleton Housing Study indicate declining affordability for Littleton households; and

WHEREAS, the 2020 update of the Littleton Housing Study highlighted among the five largest industries for Littleton residents, two of five can't afford median rent; and

WHEREAS, Action H&N 2 of the City's Comprehensive Plan identifies convening a Housing Advisory Committee, comprised of residents, real estate and development professionals, and South Metro Housing Options (SMHO) representatives, to focus on the details and logistics of implementing the 2017 Housing Study recommendations; and

WHEREAS, City Council has adopted Goal 6: Housing and Livability as part of their 2022-2023 Council Work Plan that includes Objective 2: Housing Affordability and the consideration of an Inclusionary Housing Ordinance; and

WHEREAS, Policy L&C 3 of the City's Comprehensive Plan supports creating a regulatory framework that encourages development of diverse and attainable housing options in Littleton in terms of type, size, and cost to buyers and renters; and

WHEREAS, GOAL H&N 1 of the City's Comprehensive Plan identifies the desired outcome and long term goal of a quantity and diversity of housing options that makes living in Littleton attainable for a wide range of age groups and income levels; and

WHEREAS, the lack of affordable housing is detrimental to the public health, safety, and welfare of the City, and

WHEREAS, the City wishes to adopt requirements for inclusionary housing depending on the size of developments, provide alternatives, and incentives for both market rate

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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;

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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.

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- 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) *Affordable rent* is defined as the Colorado Housing and Finance Authority (CHFA)
127 Income Limit and Maximum Rent Tables for All Colorado Counties.
- 128 (g) *Applicant* means any person, firm, partnership, association, joint venture, corporation,
129 or any other entity or combination of entities, or affiliated entities and any transferee of
130 all or part of the real property at one location that submits an application for a project
131 that would provide a total of five (5) or more new dwelling units at one location in
132 Littleton.
- 133 (h) *At one location* means all real property under common ownership or control by the
134 applicant if:
- 135 (1) The properties are contiguous at any point;
- 136 (2) The properties are separated only by a public or private right-of-way or utility
137 corridor right-of-way, at any point; or
- 138 (3) The properties are separated only by other real property owned by the applicant
139 which is not subject to this article at the time of any building permit(s), site
140 development plan, subdivision, or other zoning development application by the
141 applicant.
- 142 (i) *Building permit* means any residential or commercial construction permit issued for the
143 construction of any structure, foundation and/or superstructure or any similar term used
144 to issue permits for such work as the terminology may be modified by the city's
145 building department. A building permit does not include permits for shoring or
146 excavation and any associated permits for such work as electrical, mechanical,
147 plumbing or similar permits.
- 148 (j) *Comprehensive plan* means the Envision Littleton Comprehensive Plan adopted
149 October 15, 2019 as may be amended, or its successor.
- 150 (k) *CPI-U or Consumer Price Index* means the United States Department of Labor
151 Statistics (Bureau of Labor Statistics) Consumer Price Index for All Urban
152 Consumers, All items, for the Denver-Aurora-Lakewood Colorado area (1982-
153 84=100). In the event that the CPI-U is substantially changed, renamed, or abandoned
154 by the United States Government, then in its place shall be substituted the index
155 established by the United States Government that most closely resembles the CPI-U,
156 as determined by the city's finance director.

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- 157 (l) *DMU/DMU3* means Downtown Mixed Use shall have the same meaning as set
158 forth in the City's land use code.
- 159 (m) *Dwelling unit, including dwelling, multi-family, single-family attached / duplex*
160 *and single-family detached* shall have the same meaning as defined in the City's
161 land use code.
- 162 (n) *On-site* means at the same location of a residential development.
- 163 (o) *Qualified resident* means an individual or family who earns an annual income that
164 does not exceed eighty percent (80%) of the AMI for sale properties, or does not
165 exceed sixty percent (60%) for rentals, and who occupies or will occupy a
166 residential unit as their principal place of residence.
- 167 (p) *Rental development* means a residential development where dwelling units are
168 offered for rent.
- 169 (q) *Residential development* means the development of single-family detached
170 residences, townhomes, duplexes, condominiums, apartments or multi-family
171 dwellings as those terms are commonly understood or defined under the City's
172 unified land use code and:
173 means any project that would create five (5) or more new dwelling units at one
174 location by: (i) the construction or alteration of structures; or (ii) the conversion of
175 a use within an existing structure to a residential use from any other non-
176 residential use. If a project has both residential and non-residential uses, the
177 residential portion of a project shall be considered a residential development if it
178 would create five (5) or more new dwelling units.
- 179 (r) *Residential unit* means a dwelling unit of four hundred (400) square feet or more
180 containing sleeping, kitchen and bathroom facilities, designed for and used or
181 held ready for use as a permanent residence by one (1) family.
- 182 (s) *Restricted unit* means a residential unit that is deed restricted or by rental
183 covenant as provided in this chapter, and priced at initial sale and resale to be
184 affordable to qualified residents for thirty (30) years from the date of issuance of a
185 certificate of occupancy.
- 186 (t) *Tier 1 Inclusionary Housing Requirements* are those requirements that are
187 mandatory for all residential developments that create five (5) or more dwelling
188 units that are not considered Tier 2 projects.
- 189 (u) *Tier 2 Projects* are residential development projects that consist of at least five (5)
190 dwelling units whereby at least fifty percent (50%) of rental units are affordable
191 to those making no more than sixty percent (60%) of the AMI, or those for-sale
192 units are affordable who are making no more than eighty percent (80%) of the
193 AMI.
- 194 (v) *Townhouse* shall have the same meaning as defined in the City's adopted land use
195 and zoning code.

196 **4-2-3: Applicability:**

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

200 (b) Affordable housing developments or residential housing developments constructed
201 or operated by any local or regional housing authority or an entity that qualifies for a tax
202 exemption under C.R.S. § 29-4-507 or C.R.S. § 29-4-227 are exempt from this Chapter.
203

204 (c) It is the intent of City Council that when there is a chapter, section, requirement, or
205 variance within this Chapter that may be directly in conflict with the City's land use code,
206 that this Chapter controls subject to the reasonable interpretation of the City Manager.
207

208 **4-2-4: Tier 1 Inclusionary housing requirements.**

209
210 (a) Number. New residential developments of five (5) or more units shall include at
211 least five percent (5%) of the new residential units as affordable units, rounded up.
212

213 (b) Affordability Requirements for Rental Units. Those five percent (5%) of affordable
214 units shall be rented to those individuals whose earnings do not exceed sixty percent (60%)
215 of the AMI.
216

217 (c) Affordability Requirements for "For Sale" Units. Those five percent (5%) of
218 affordable units that are available for sale, shall be affordable to those whose earnings do
219 not exceed eighty percent (80%) of the AMI.
220

(d) Fee in Lieu.

221 (1) Applicants for residential developments containing a range of five (5) to
222 nineteen (19) total units may pay a fee in lieu to the City for each required
223 affordable unit. Said fee shall be established by City Council by resolution during
224 annual fee adoptions or at such time as may be determined by City Council.
225

226 (2) Applicants for residential developments of twenty (20) or more total units
227 may pay a fee in lieu to the City for each required affordable unit. Said fee shall
228 be established by City Council by resolution during annual fee adoptions or at such
229 time as may be determined by City Council.
230

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

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237 CIP for those residential developments units between five (5) and nineteen (19)
238 units.

239
240 (4) Payment of the fee in lieu shall be made to the City prior to the issuance of
241 any building permits for the residential development.

242
243 (5) Funds collected from fees in lieu shall be used by the City for the purposes
244 of planning for, subsidizing, acquisition of properties for, or developing affordable
245 housing in partnership with other organizations and developers whose interest is to
246 provide these housing options.

247
248 (6) For those developments subject to the IHO that have either submitted a Site
249 Development Plan and received staff comments or submitted for a final plat or have
250 an approved MDP as of the effective date of this ordinance that the fee-in-lieu be
251 reduced by 75%

252

253 **4-2-5: Tier 1 Inclusionary Housing Incentives.**

254
255 For those qualifying residential developments that choose to construct affordable units en
256 lieu of fee-in-lieu the following incentives shall apply.

257
258 (a) The City shall expedite any application seeking to provide affordable housing as set
259 forth in this Chapter.

260
261 (b) Required Parking as set forth in the City's land use code may be reduced by an
262 additional twenty-five percent (25%) for those projects within one-quarter mile of a
263 transit station.

264
265 (c) Open Space requirements as set forth in the City's land use code may be reduced up to
266 fifty percent (50%) if the location is within one-quarter mile of a City park or
267 designated open space with no need to demonstrate hardship.

268
269 (d) An allowable increase of fifteen percent (15%) in dwelling units per acre for single
270 family, multi-family, duplex, and townhome projects for all residential districts.

271
272 (e) Administrative adjustments as set forth in the City's land use code to allow for twenty-
273 five percent (25%) reduction on minimum lot requirements as opposed to the current
274 ten percent (10%).

275
276 (f) Permit fee rebate of \$2,500 per unit for affordable units built not to exceed fifty percent
277 (50%) of the total city permit fee obligation.

278
279 (g) Reduction in required neighborhood meetings from two to one.

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

- (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 thirty-five percent (35%) in addition to those parking reductions that apply to developments 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 without the need to demonstrate hardship.
- (d) An allowable increase of fifteen percent (15%) in dwelling units per acre for single family, multifamily, duplex, and townhome projects for all residential districts.
- (e) Administrative adjustments as set forth in the City’s land use code, may allow for a twenty-five percent (25%) reduction on minimum lot requirements as opposed to the current ten percent (10%).
- (f) Administrative approvals will be allowed by the Community Development Director of Master Development Plans (MDPs) where projects include a majority of inclusionary housing are constructed as set forth in this chapter.
- (g) 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.
- (h) If within the DMU or DMU3 zoning district an allowable increase of stories to five (5) provided the overall height as measured in the City’s land use code does not exceed fifty-five feet (55ft) may be allowed.
- (i) Residential developments in Tier 2 may use the equivalent density of the next residential district that is adjacent to the proposed development.
- (j) A reduction in minimum lot size by twenty-five percent (25%) may be allowed.

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

326

327

328 **4-2-7. Quality, Size, and Amenities of Affordable Units.**

329

330 (a) Quality of Units. Affordable units shall be of comparable quality, design and
331 materials to the market units creating the inclusionary housing obligation and constructed
332 with durable materials that promote sustainable, energy efficiency and attractive affordable
333 housing.

334

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

338

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

345

346 **4-2-8. Relationship of Affordable Units to Market Units.**

347

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

350

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

354

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

360

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

364

365 **4-2-9. Location and Timing.**

366

367 Except as otherwise provided in this Chapter, affordable dwelling units shall be provided as
368 follows:

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

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

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

4-2-10. All Inclusionary Housing Technical Requirements.

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

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

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

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

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

4-2-11. Sale or lease of restricted units.

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- 413 (a) No person offering a restricted unit for rent or sale shall fail to disclose the deed
414 restriction required by this Chapter.
415
- 416 (b) No person shall sell, rent, purchase, or lease a restricted unit except to a qualified
417 resident.
418
- 419 (c) The maximum sales price for a restricted unit shall be set no higher than at a price
420 affordable to households earning eighty percent (80%) of AMI.
421
- 422 (d) The rental rate for a restricted unit shall be set no higher than at a price affordable
423 to households earning sixty percent (60%) of AMI.
424
- 425 (e) Restricted units shall not be rented for a period of less than thirty (30) consecutive
426 days.
427
- 428 (f) Restricted units shall be continuously occupied by a qualified household and shall
429 not remain vacant for more than ninety (90) consecutive days unless reasonable and
430 documented efforts to occupy the restricted unit are unsuccessful.
431
- 432 (g) The owner of a restricted unit is solely responsible for verifying the eligibility of a
433 tenant as a qualified resident, and may require the prospective tenant to provide the
434 following information on an application to be provided by the owner of a restricted
435 unit:
436
- 437 (1) Verification (e.g., wage stubs, tax return, W-2 or other appropriate
438 documentation) of the tenant's AMI;
439
- 440 (2) A valid form of identification, such as a driver's license, state-issued
441 identification, passport or military identification;
442
- 443 (3) Any other documentation which the owner deems necessary to make a
444 determination of eligibility; and
445
- 446 (4) A signed statement certifying and acknowledging: that all information
447 submitted in such application is true to applicant's best knowledge; that the
448 applicant understands that they may not sublet the restricted unit; that the
449 applicant authorizes the owner to verify any and all past or present
450 employment, financial and residency information and all other information
451 submitted by an applicant; and that applicant has read and understands the
452 deed restriction.
453

454 **4-2-11. Violation and Penalty**
455

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456 (a) It is unlawful to operate a restricted unit in violation of this Article, and violations
457 shall be punishable as set forth in 1-4-1 of this Code. Each day of violation Shall be deemed
458 a separate offense.

459
460 (b) In addition to the remedies provided by this Code, the City shall have any and all
461 remedies provided by law and in equity for a violation of a deed restriction, including
462 without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including
463 without limitation an injunction requiring eviction of the occupant(s) and an injunction to
464 prohibit the occupancy of the restricted unit in violation of the deed restriction.

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

472
473 **Section 3:** Repealer. All ordinances or resolutions, or parts thereof, in conflict
474 with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer
475 clauses of such ordinance nor revive any ordinance thereby.

476
477
478 INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council
479 of the City of Littleton on the 18th day of October, 2022, passed on first reading by a vote of 5
480 FOR and 0 AGAINST; and ordered published by posting at Littleton Center, Bemis Library,
481 the Municipal Courthouse and on the City of Littleton Website.

482 PUBLIC HEARING on the Ordinance to take place on the 1st day of November,
483 2022, in the Council Chambers, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado,
484 at the hour of 6:30 p.m., or as soon thereafter as it may be heard.

485
486 PASSED on second and final reading, following public hearing, by a vote of 6 FOR and
487 1 AGAINST on the 1st day of November, 2022 and ordered published by posting at Littleton
488 Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

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489 ATTEST:

DocuSigned by:

490 Calleen L. Norton
491 Calleen L. Norton

492 CITY CLERK

DocuSigned by:

493 Reid Betzing
494 Reid Betzing

495 CITY ATTORNEY

DocuSigned by:

Kyle Schlachter
523C818569A449B
Kyle Schlachter
MAYOR

