

O-2022-12

AN ORDINANCE

AMENDING CHAPTER 14.27 AND TITLE 15 OF THE LAKEWOOD MUNICIPAL CODE AND ARTICLE 13 OF THE LAKEWOOD ZONING ORDINANCE, ALL RELATING TO AFFORDABLE HOUSING

WHEREAS, pursuant to study sessions held on April 18, 2022, and June 6, 2022, regarding Lakewood Municipal Code ("LMC") Chapter 14.27 - Residential Growth Limitation, the City Council desires to extend beyond May 31 each year the allocation period for the "affordable housing pool" and to provide the ability for projects with "affordable" units to begin construction prior to receiving all required allocations under LMC Chapter 14.27;

WHEREAS, to accomplish the foregoing and to establish clarity and consistency in general when addressing affordable housing issues within Lakewood, the Lakewood City Council further desires to standardize within the LMC and the Lakewood Zoning Ordinance certain definitions and other provisions related to affordable housing;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the LMC 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. Amendments to Chapter 14.27 of the Lakewood Municipal Code.

A. Section 14.27.040 of the Lakewood Municipal Code hereby amended by the addition of a new subsection "H," which shall read in its entirety as follows:

H. Buildings with Affordable Units - Exemption.

1. Notwithstanding anything to the contrary in this chapter 14.27, any application to develop residential structures containing at least twenty percent (20%) of units for rental units at or below eighty percent (80%) of area median income, or ownership units at or below one hundred twenty percent (120%) of area median income (hereafter, an "Affordable Project"), shall be processed in accordance with this subsection H and shall be exempt from the remaining provisions of this chapter 14.27 to the extent such provisions are inconsistent with this subsection H.

2. Provided that all prerequisites required under any applicable provision of the Lakewood Municipal Code for application for a building permit, with the exception of obtaining allocations, have been satisfied, the City shall issue all building permits needed for an Affordable Project, whether the Affordable Project has sufficient allocations to construct the entire Affordable Project or not, subject to the following:
 - a. In the year building permits are issued, allocations equivalent to the total number of residential units in the Affordable Project will be assigned from the surplus pool to the extent available. If this number of allocations is insufficient, the same process will be followed in the following year.
 - b. If any residential units of the Affordable Project do not have allocations after the first two (2) years, then allocations will be distributed from both the open pool and the surplus pool as needed to ensure all such residential units have allocations within five (5) years after building permit issuance.
- B. The following enumerated sections of Chapter 14.27 of the Lakewood Municipal Code are hereby amended to read in their entirety as follows:

14.27.070 - Schedule of Allocation Periods.

- A. For all calendar years, the open pool will have an allocation period from January 1 to October 31.
- B. For all calendar years, the hardship pool will have an allocation period from January 1 to October 31.
- C. For all calendar years, the affordable/low-income housing pool will have an allocation period from January 1 to October 31.
- D. The surplus pool allocation period will occur from November 1 through December 31.

14.27.090 - Issuance of Allocations.

- A. Open Pool. For each respective allocation period in the open pool, one allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number.
- B. Hardship Pool. Hardship pool allocations are distributed by the City Council at their discretion upon request from an applicant, and subject to a finding that all of the following conditions exist:

1. That the issuance of an allocation is necessary to prevent undue hardship on the applicant; and
 2. That the issuance of an allocation(s) will not adversely affect the public interest or the purposes of this chapter; and
 3. Allocations are available in the hardship pool; and
 4. That the requested allocation and the resulting building permit would be proper and in accordance with all of the ordinances and regulations of the City of Lakewood, excepting the provisions of this chapter.
- C. Affordable/Low Income Housing Pool. Allocations assigned to the "affordable/low income" housing pool shall only be available for use by qualifying projects during the affordable/low-income housing pool allocation period each year. Any excess allocations in the affordable/low-income housing pool at the end of the allocation period will be transferred to the surplus pool for distribution pursuant to subsection (D) below.
- D. Surplus Pool. All unused open pool, affordable/low-income pool, and hardship pool allocations which remain on November 1 of each year will be available in the surplus allocation pool. One allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro rata basis to applicants based upon their requested number. Allocations which are unclaimed during the surplus pool or which are due to expire will be assigned by the City Council. Acquisition of the final remaining allocation by a banking plan for a specific project during the surplus pool shall trigger the expiration of the banking plan at the end of the first allocation period in the following year.
- E. Insufficient Allocations. Except as noted above, if there are insufficient allocations available to issue at least one allocation to each applicant for a particular allocation period due to demand, a lottery shall be held to determine the recipients of the allocations. Those applicants who are unable to obtain an allocation during that particular allocation period will be given first preference to receive an allocation in the following allocation period in the same pool if a timely application is filed.
- F. Following the issuance of allocations, staff shall present a report to Planning Commission and City Council summarizing the results of the allocation period.

- C. Section 14.27.020 of the Lakewood Municipal Code is hereby amended by the addition of a new subsection "F" which shall read in its entirety as follows:

14.27.020 - Implementation/Exceptions.

F. Residential structures containing 100% of units for rental at or below eighty percent (80%) of area median income, or ownership units at or below one hundred percent (100%) of area median income.

SECTION 2. Adoption of a new Chapter 15.02. Title 15 of the Lakewood Municipal Code is hereby amended by the addition thereto of a new Chapter 15.02 relating to affordable housing, which shall read in its entirety as follows:

Chapter 15.02 - AFFORDABLE HOUSING

15.02.010 - Applicability

The provisions of this Chapter shall apply to any construction, reconstruction, development, or conversion of any property or structure, as applicable, to affordable housing (as defined herein) within the City of Lakewood, Colorado, subsequent to the effective date of this Chapter.

15.02.020 - Definitions

Affordable Housing: Housing for which, pursuant to a recorded deed restriction in place for not less than 20 years, the occupants cannot be required to pay more than thirty percent (30%) of their gross monthly household income on rent/mortgage and utilities, and includes housing that qualifies as "low income," where the occupant earns 0% to 50% of AMI; "moderate income," where the occupant earns 51% to 80% percent AMI; and "middle income," where the occupant earns 81% to 120% percent AMI.

Area Median Income (AMI): The median household income for the City of Lakewood and Jefferson County, as adjusted by household size, determined by the United States Department of Housing and Urban Development (HUD) and published annually by the Colorado Housing and Finance Authority (CHFA).

Market-Rate Housing: Housing that is not affordable housing as defined herein.

15.02.030 - Design and Quality Standards

The following design standards shall apply to all affordable housing units within a development project:

- A. Affordable housing units shall be dispersed throughout the residential project and shall have access to all on-site amenities available to market rate housing units.

- B. The construction quality and exterior design of affordable housing units shall be comparable and visibly indistinguishable to the market rate housing units including building materials, foundations, window types, and roof pitches.
- C. Affordable housing units shall be functionally equivalent to market-rate housing units. However, affordable housing units may have alternative interior finishes, including but not limited to kitchen cabinets, countertops, and bathroom finishes.
- D. The unit type mix ratio for all affordable housing units must be equivalent to the unit type mix ratio for market rate housing units within the same residential project.

SECTION 3. Amendments to Article 13 of the Lakewood Zoning Ordinance. The definition of Affordable Housing in section 17.13.1.3 of the Lakewood Zoning Ordinance (Title 17 of the Lakewood Municipal Code) is hereby amended to read as follows:

Affordable Housing shall have the same meaning as set forth in section 15.02.020 of the Lakewood Municipal Code.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after final publication.

SECTION 5. Severability. 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 regular hybrid meeting of the Lakewood City Council on the 11th day of July, 2022; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of July, 2022; set for public hearing on the 25th day of July, 2022, read, finally passed and adopted by the City Council on the 25th day of July, 2022 and, signed and approved by the Mayor on the 26th day of July, 2022.



Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney