PRIORITIZATION OF INCOME-RESTRICTED AFFORDABLE HOUSING ORDINANCE
ADMINSTRATIVE RULES AND REGULATIONS
Adopted _____

Adopted pursuant to Article XII, Chapter 27 (Housing) of the Denver Revised Municipal Code

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SECTION 1: PRIORITIZATION PROGRAM

I. PURPOSE

These rules and regulations set forth the procedures for the implementation of the Prioritization of Income-Restricted Affordable Housing Ordinance ("Prioritization Program") codified at Article XII, Chapter 27 (Housing) of the Denver Revised Municipal Code("DRMC").

The rules and regulations establish the responsibility for administration of the Prioritization Program between the Owner of a project subject to the requirements of the ordinance and the City and County of Denver (the "City"). These rules and regulations also establish a scoring system as required by DRMC Section27-244(c) for the City to manage the priority of eligible households. These rules and regulations shall be the source of detailed guidance related to the administration of the Prioritization Program, including compliance options, submittal and compliance procedures, exceptions and waivers, appeals procedures, and other details relevant to administration of the Prioritization Program.

Recognizing that no set of regulations can anticipate every conceivable situation to which an ordinance may apply, it is anticipated that these rules may be amended or supplemented as needed. Further, these rules and regulations are not intended to limit the administrative discretion of those persons implementing the Prioritization Program on subjects not covered herein. In some instances, these rules and regulations attempt to summarize portions of the Prioritization Program. In the event of a disagreement between these rules and regulations and the Prioritization Program, the Prioritization Program controls.

II. DEFINITIONS

For the purposes of these rules and regulations, the following words, and phrases, as used in this article, have the following meanings:

A. ***Affordability Mechanism*** *is any document requiring the provision of affordable housing. Examples include: affordable housing covenants, affordable housing plans, rental and occupancy agreements, agreements (negotiated or otherwise), build alternative plans, etc.*

B. ***Affordable Ownership Unit*** means a dwelling unit that must be made available for purchase at an affordable price to an income-qualified household.

C. ***Affordable Rental Unit*** means a dwelling unit that must be made available at an affordable rent and occupied by an income-qualified household.

D. ***Affordable Unit*** means an Affordable Rental Unit or an Affordable Ownership Unit.

E. ***Applicable Housing Project*** means:
1. any project that receives funding from the city for the purpose of creating or preserving affordable units.
2. any project that is subject to a build alternative plan or other agreement with the city where affordable units must be provided; or
3. a Residential Development or High Impact Development, as those terms are defined in Section 27-219 of the DRMC, that provides income-restricted units pursuant to chapter 27, article X, of the DRMC if:
   a) *the project, regardless of the number of dwelling units, is located in an Area Vulnerable to Displacement, or*
   b) *the project contains a minimum of one hundred (100) dwelling units.*
4. The term Applicable Housing Project excludes projects that provide any Permanent Supportive Housing units.

F. ***Approved Projects*** shall mean a fully executed agreement entered into by Owner or partner and the City and County of Denver that is:
1. Signed by all parties involved; and
2. Recorded in the office of City and County of Denver Clerk and Recorder Office, if required.

This definition only applies in relation to the applicability of prioritization to Applicable Housing Projects in the City and County of Denver. *(Please also see Applicable Housing Project.)*

G. ***Area Vulnerable to Displacement*** means neighborhoods identified as meeting all three (3) indicators as defined in Appendix C—Key Equity Concepts Methodology of Blueprint Denver, a supplement to the city's comprehensive plan. As of the date of adoption of these rules, the map identifying such neighborhoods is located on page 39 of Blueprint Denver. (Available at: https://denver.prelive.opencities.com/files/assets/public/v/1/community-planning-and-development/documents/planning/blueprint-denver/c-key_equity_concepts_methodology.pdf)

H. ***Director*** means the executive director of HOST or the director's designee.

I. ***Displaced or Vulnerable to Displacement*** means an individual or household:
1. who is or was Rent or Mortgage Burdened.
2. who is or was required to move from a rental unit because the property owner is selling or has sold the rental unit.
3. who is or was required to move from a rental unit because the owner is moving into the unit.
4. who is being or has been Evicted Without Cause or for nonpayment of rent.
5. whose primary residence is subject to a foreclosure proceeding or whose primary residence was sold pursuant to a foreclosure sale.

6. whose primary residence requires or required costly repairs to address property code violations.
7. who is or was a resident of a Redlined Neighborhood; or
8. whose primary residence is being or was taken through eminent domain.

J. ***DRMC*** means Denver Revised Municipal Code.

K. ***Eligible Household*** means a household where one (1) or more individuals in the household:
1. were displaced from their residence in Denver any time after the year 2000, are vulnerable to displacement from their residence in Denver, or have a direct family member that was displaced from Denver between 1939—2000 and
2. has been certified by HOST as eligible to participate in the prioritization program.

L. ***HOST*** means the Department of Housing Stability or its successor.

M. ***Household*** means:
1. a single person.
2. any number of persons bearing to each other the relationship of husband, wife, mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece, living together as a single nonprofit housekeeping unit; or
3. two (2) unrelated adults over the age of eighteen (18) years and, if applicable, any persons bearing to either of the two (2) unrelated adults the relationship of son, daughter, stepson, stepdaughter, mother, father, grandmother, grandfather, grandson, granddaughter, sister, brother, living together as a single nonprofit housekeeping unit.

N. ***No Cause Eviction*** or Evicted Without Cause means an action taken by the landlord if there is no agreement as to the term of occupancy. If there is no such agreement, the landlord does not need a reason to terminate the tenancy and can evict the tenant after giving the proper notice.

O. ***Owner*** means, as appliable by the context, an owner, developer, or property manager of an affordable unit. Owners are considered prioritization partners of HOST.

P. **Permanent Supportive Housing Unit** is a residential dwelling unit that combines non-time-limited affordable housing assistance with wrap-around supportive services for people experiencing homelessness.

Q. ***Prioritization Portal*** is an electronic software system created and utilized by HOST to administer various parts of the prioritization program. This term also applies to any successor platform or system as determined by HOST.

R. ***Prioritized Unit*** means an affordable unit subject to the prioritization requirement that must be provided to an eligible household as required by the Prioritization Program.

S. ***Rent or Mortgage Burdened*** means the renters or owners are paying more than 30% of their monthly household income on rent or mortgage and utilities.

Redlined Neighborhood **is** a neighborhood, as identified in a neighborhood receiving a "C" or "D" grade on the Denver Neighborhood Equity Index in Relation to Historical Redlining Grades published by the Denver Department of Public Health & Environment / Division of Community and Behavioral Health (available at: https://www.denvergov.org/content/dam/denvergov/Portals/771/documents/CH/healh-equity/RedliningAnd%20EquityInDenver_9.20.19.pdf)

III. APPLICABILITY

These rules shall apply to all Applicable Housing Projects. Except to the extent prohibited by applicable law or state or federal funding sources, at least thirty (30) percent of Affordable Units in an Applicable Housing Project must be provided to Eligible Households in accordance with the Prioritization Program and these rules and regulations. In calculating the number of Prioritized Units required pursuant to the Prioritization Program, rounding shall be used such that one-tenth (0.1) or greater shall result in requiring that a whole unit be set aside as a prioritized unit.

The prioritization requirements apply to:

A. Affordable Ownership Units only at the time of first sale of the affordable ownership unit; and

B. Affordable Rental Units for the duration of the term of affordability as detailed in a recorded affordable housing covenant or other affordability mechanism. Prioritized Units in an Applicable Housing project may float among units during the term of affordability.

The prioritization requirements are intended to have a prospective effect only and shall not apply to:

A. HOST funded projects or affordable housing plans (or similar forms of negotiated agreements) approved prior to July 1, 2024, or any amendments to such plans or agreements; or

B. Affordable Units existing prior to July 1, 2024.

The prioritization requirements shall not apply to projects funded, affordable housing plans or similar forms of negotiated agreements approved or affordable units existing prior to July 1, 2024.

SECTION 2: PRIORITIZED PROJECT

I. PROJECT REQUIREMENTS

At least thirty percent (30%) of Affordable Units at Applicable Housing Projects must be made available on a prioritized basis to households that have been Displaced or are Vulnerable to Displacement.

A. Affordable Rental

Prioritization applies to newly built Affordable Rental Units in Applicable Housing Projects. For newly built Affordable Rental Units, at least thirty percent (30%) of the Affordable Rental Units must be leased to Eligible Households at the initial and subsequent lease-up stages.

B. Affordable Ownership

Prioritization applies to newly built Affordable Units in Applicable Housing Projects. For newly built Affordable, at least thirty percent (30%) of the Affordable Units must be sold to Eligible Households at the time of initial sale only.

II. UNIT REQUIREMENTS

Prioritized Units must be:

A. Interspersed among other dwelling units and non-prioritized Affordable Units.
B. Proportionate to the number of bedrooms of other dwelling units and non-prioritized Affordable Units; and
C. Compliant with all rules and regulations adopted by the Director; provided, however, that to the extent that the prioritization requirement conflicts with similar Federal laws, rules, or regulations regarding mixed-income units within Affordable Housing Projects, such Federal laws, rules, or regulations shall prevail.

III. WAIVER REQUESTS

An Owner of an Applicable Housing Project that contains Affordable Ownership Units may seek a waiver from the Director of the requirement to market Affordable Ownership Units to Eligible Households. The Director may grant a waiver if the Owner can demonstrate that the Owner meets the intent and requirements of the Prioritization Program through the Owner's typical marketing and business practices. An Owner granted a waiver of the requirement to market Prioritized Units to Eligible Households must still submit reports pursuant to DRMC Section 27-245 and these rules and regulations.

IV. MARKETING

Prioritized Units must be open and marketed solely to Eligible Households for a minimum of fourteen (14) business days prior to being offered for sale or rent to other income-qualified households.

If, after the fourteen-business day marketing period has expired, there are no qualified Eligible Households identified, the Prioritized Units may be leased or sold to other an income-qualified affordable households.

SECTION 3: PRIORITIZED PARTNER

Owners must be approved by HOST to participate in the Prioritization Program. Owners will submit participation requests via the Prioritization Portal for HOST approval. Once approved, an owner must utilize the portal to list and market available prioritized units, receive and track interested residents and submit reporting to HOST.

I. OWNERS' REVIEW OF ELIGIBLE HOUSEHOLDS

Owners will be able to retrieve a list of interested applicants at the end of the required marketing period from the Prioritization Portal. The list will contain Eligible Households that have been automatically scored by the Prioritization Portal system.

A. Owners must review and process interested applicants in order of highest-ranking scores (e.g. highest scored application first, second highest scored application second, etc.) to identify qualified Eligible Households for a Prioritized Unit.

B. For Affordable Rental Units, Owners must solicit rental applications from and offer to enter into lease agreements with Eligible Households in ranked order as applicants' names appear on the list obtained from the Prioritization Portal. If any Eligible Household does not meet an Owner's reasonable rental criteria, the Eligible Household must be provided written information why they are not being offered a lease agreement.

C. For Affordable Ownership Units, Owners must consider whether an Eligible Household is a qualified purchaser in ranked order as applicant names appear on the list obtained from the Prioritization Portal. If any Eligible Household does not meet an Owner's reasonable criteria to purchase an Affordable Ownership Unit, the Eligible Household must be provided written information why they are not being offered the unit to purchase.

D. Owners of Applicable Housing Projects must use good faith efforts to identify and enter into purchase contracts or leases with Eligible Households that are also income-qualified for the particular Prioritized Unit. Additionally, every attempt must be made to lease or sell Affordable Units specifically designated for and in accordance with the Americans with Disabilities Act to those individuals with such disabilities.

II. REPORTING

A. Affordable Ownership Units

Owners must demonstrate that thirty percent (30%) of the total Affordable Ownership Units in an Applicable Housing Project were sold to Eligible Households at the initial sale of the unit. Owners must submit information via the Prioritization Portal (or any other reporting mechanism provided or required by HOST)

Owners must report on which Eligible Households have been reviewed for consideration to purchase a Prioritized Unit and the result of review. If an Eligible Household is denied, an Owner must provide an explanation with the reasons for such denial. If an Eligible Household is approved, an Owner must attach the purchase contract and closing documents.

B. Affordable Rental Units

Owners are accountable for leasing Affordable Rental Units to Eligible Households. Owners must demonstrate that thirty percent (30%) of the prioritized Affordable Units were leased to and occupied by Eligible Households:

(i) immediately after initial lease up.
(ii) when a new lease is entered into; and
(iii) yearly thereafter.

Owners must submit information via the Prioritization Portal (or any other reporting mechanism provided or required by HOST) regarding applications received for all prioritized affordable units: Owners must report on which Eligible Households have been reviewed for consideration and the result of review. If an Eligible Household is denied, Owner must provide an explanation with the reasons for such denial. If an Eligible Household is approved, owner must attach the lease agreement.

Additionally, owners must complete yearly prioritization compliance reports in conjunction with or in addition to any other routine rental reports as prescribed by the applicable affordability housing mechanism or HOST.

III. VIOLATIONS

Owner violations of the Prioritization Program include, but are not limited to, the following:

A. Failure to make available at least thirty percent (30%) of the Affordable Units on a prioritized basis to Eligible Households.

B. Failure to adequately intersperse the Prioritized Units among other dwelling units and Affordable Units.

C. Failure to provide Prioritized Units proportionate to the number of bedrooms of other dwelling units and Affordable Units.

D. Failure to comply with the Prioritization Program and its associated rules and regulations.

E. Failure to comply with applicable affordable housing covenant.

F. Failure to market the Prioritized Units as specified in these rules and regulations.

G. Failure to provide timely and accurate reporting.

H. Implementing unreasonable residency barriers to eligible households. Such barriers include but are not limited to renting in excess of affordable rent limits as posted by HOST, barring eligibility due to criminal background, imposing extended employment requirements, imposing excessive income requirements (e.g. must earn double or triple monthly rent amount), and any other requirements not equally applied to all applicants.

SECTION 4: PRIORITIZED APPLICANT

I. PROGRAM ELIGIBILITY

For a household to be qualified to participate in the prioritization program, applicants must submit an application via the prioritization portal and attach sufficient documentation for HOST to verify that at least one (1) individual in the applicants' household was/is:

- Displaced from a residence in Denver any time after the year 2000,
- Vulnerable to Displacement from its residence in Denver, **or**
- A member of the Household was Displaced from a residence in Denver between 1939—2000.

An entire household is entitled to participate in the Prioritization Program if at least one (1) individual of that household meets the eligibility criteria.

Eligible Households must also:

1. Utilize the Prioritization Portal to search for available prioritized units and submit applications to become an Eligible Household,
2. Meet the income eligibility requirements for a particular affordable unit,
3. Meet any lawful, reasonable requirements imposed by an owner of an applicable housing project,
4. Comport with any affordable housing mechanism and/or restrictions placed on the property, and
5. Comply with the Prioritization Program and its associated rules and regulations.

II. PRIORITIZATION CRITERIA

A. Application

In order to be evaluated and approved as an Eligible Household, Households must submit an on-line application through the Prioritization Portal. HOST staff will be available to assist with the application process and review of documents prior to submittal.

B. Priority Scoring

The following scoring system establishes the priority of approved Eligible Households. An Eligible Household's point total will dictate their priority relative to other Eligible Households (i.e. the applications will be ranked according to

total cumulative score in relation to other applicants). The more points an Eligible Household receives, the higher their name will appear on the list provided to prioritized partners of interested Eligible Households. If any applications result in a tie score, the applicant who submitted their completed application first will be given priority over the other Eligible Households.

Denver Residency Scoring System	Points
Denver resident for 5-9 continuous years	10
Denver resident for 10-14 continuous years	15
Denver resident for 15+ continuous years	20
Displacement Scoring System	**Points**
Displaced or Vulnerable to Displacement from a neighborhood where they have lived for at least five (5) years	20
Has generational ties to a neighborhood where their parents, grandparents, or primary guardian or guardians were Displaced	20
Currently doubled up (aka "couch surfing") or experiencing homelessness	15
Member of the household has a disability	10
Is 65 years or older	10
Has children in their household eligible to be in Denver Public Schools	5

NOTE: Residency in Denver of five or more years is not required.

C. Documentation

Applicants must document residency. The following are examples of supporting documentation that may be provided with the prioritization application.

Denver Residency	Examples of Documentation
Resident: 5-9 continuous years	Property records, tax documents, mortgage statements, or other similar documentation, for the specified time period.
Resident: 10-14 continuous years	
Resident: 15+ continuous years	

Applicants must document that they satisfy the prioritization criterion. The criterion in the following table requires self-attestation. However, HOST reserves the right to monitor, audit and review applications for accuracy and completeness. HOST also reserves the right to request supporting documentation for any self-attested criterion. HOST will consider any and all other documentation provided that demonstrates eligibility. If an applicant cannot provide supporting documentation when requested, HOST, at its sole and absolute discretion, may determine that an applicant is not eligible for the points associated with a respective criterion.

Prioritization Criterion	Examples of Documentation
Displaced or Vulnerable to Displacement from a neighborhood where the	Residency may be documented by the same methods as detailed above. Displacement or Vulnerable to

applicant has lived for at least 5 years where an Applicable Housing Project is being built	Displacement may be documented by notice of sale, eviction or non-renewal of current lease from current home, financial records documenting housing costs exceeding household income, or other similar documentation.
Generational ties to a neighborhood where their parents, grandparents, or primary guardian or guardians were displaced	This may be documented by providing property records, tax documents, mortgage statements, or other similar documentation for the parent(s), grandparent(s), or primary guardian(s) during the specified time period.
Currently doubled up (aka "couch surfing") or experiencing homelessness	This may be documented by executing a self-attestation affidavit.
Has household children eligible to be in Denver Public Schools	This may be documented by providing current enrollment records for the child or children.
Member of the household has a disability	This may be documented by providing a medical attestation from a physician (merely stating individual has a disability but does not specify disability), documentation of current Social Security disability statement, legal decree, etc.
Is 65 years or older	This may be documented by providing a copy of a current driver's license or state identification card, provision of current social security statement or current Medicare enrollment documents, etc.

Please Note: *Eligible Households seeking an Affordable Rental Unit must still meet all residential property application requirements and all underlying affordable housing requirements.*

Eligible Households seeking an Affordable Ownership Unit must still meet all lender requirements and underlying affordable housing requirements.

III. VIOLATIONS

Applicant violations of the Prioritization Program include, but are not limited to, the following:

A. Failure to occupy the Prioritized Unit within 30 calendar days of unit availability to the Eligible Household.

B. Knowingly provided false statements.

C. Knowingly submitting incorrect or inaccurate documentation.

D. Execution of the attestation or release forms knowing the statements contained therein to be false.

E. Failure to occupy the Prioritized Unit as a sole and primary residence.

F. Failure to comply with existing Affordable Housing mechanism or covenant placed on the Affordable Unit or Rental Affordable Unit.

G. Failure to comply with the Prioritization Program and its associated rules and regulations.

IV. COMPLIANCE ENFORCEMENT

If an applicant is found to have knowingly violated these rules, applicant may (at HOST's discretion) be subject to the following:

- First Violation: The applicant will be banned from program participation for one (1) calendar year, beginning on date of violation discovery.

- Second Violation: The applicant will be banned from program participation permanently.

SECTION 5: HOST

I. HOST RESPONSIBILITY

HOST created the Prioritization Program to facilitate accessibility to Denver affordable housing for historically marginalized communities, displaced residents, and those at risk of displacement.

HOST shall implement, enforce, and evaluate the Prioritization Program. All instruments for implementation of the Prioritization Program will be developed and maintained by HOST. HOST essential responsibilities include:

- Implementing and marketing the Prioritization Program.
- Establishing the prioritization scoring system.
- Monitoring Owner and participant participation.
- Enforcing compliance and assessing fines and penalties for non-compliance; and
- Reporting program performance on a yearly basis.

II. PRIORITY SCORING

HOST, through these rules and regulations, has established a scoring system to manage and establish the priority of Eligible Households. The scoring system shall be used solely to determine the ranked order of Eligible Households for a Prioritized Unit. HOST will maintain a list of Eligible Households and will review all applications for completeness and accuracy. HOST may also conduct additional research and request additional documentation in support of an application.

III. MONITORING

HOST will monitor the Prioritization Program for compliance and program progress as follows:

IV. OWNERS

A. For Sale:
HOST will monitor and audit owners' compliance through the date of initial sale of all Affordable Units at an Applicable Housing Project.

B. Rental:
HOST will monitor and audit owners' compliance from the period beginning with the initial lease up of Prioritized Units and yearly until the end of the affordability term.

C. HOST will monitor and audit owners' compliance upon receipt of a complaint of non-compliance.

V. APPLICANTS

HOST will monitor, audit and review applications for the program for accuracy and completeness. HOST reserves the right to request supporting documentation for any self-attested criterion. Forms of monitoring will include, but not limited to:

1. Yearly - 10% of applications received will be subject to a heightened review (as staffing permits).

2. An application will be subject to a heightened review if an applicant receives 35 or more total points (as staffing permits).

3. An application will be subject to a heightened review upon receipt of reports of fraud or there is reasonable suspicion of fraud.

VI. REPORTING

HOST will prepare a report on the results of the Prioritization Program beginning one (1) year after the effective date of the Prioritization Program and annually thereafter, including at a minimum the following data:

A. The number of eligible households that rented or purchased a prioritized unit.

B. The number of eligible households that have been qualified by HOST but have not yet rented or purchased a prioritized unit.

C. The total number of prioritized units that were set aside during the reporting period.

D. The number of prioritized units that were set aside during the reporting period but not sold or rented to an eligible household; and

E. The total number of individuals submitting applications during the reporting period and a breakdown of the application outcome, including whether the application was approved, denied, or pending.

SECTION 6: COMPLIANCE

I. ENFORCEMENT

HOST shall have all the authority provided under DRMC to enforce the provisions of the Prioritization Program and these rules and regulations. Upon complaint or based upon the results of regular monitoring, HOST may initiate an investigation and physical inspection to verify compliance.

Nothing in these rules and regulations shall prevent the City from seeking any remedy available in equity or law.