

BALLOT TITLE

SHALL THE CITY OF DENVER'S TAXES BE INCREASED ANNUALLY BY ELEVEN MILLION, NINE HUNDRED EIGHTY SIX THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE DOLLARS (\$11,986,875.00) (FIRST FULL FISCAL YEAR INCREASE), AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM AN EXCISE TAX TO BE PAID BY LANDLORDS ON EACH INDIVIDUAL RESIDENTIAL PROPERTY HELD OUT FOR LEASE IN THE AMOUNT OF \$75 PER YEAR PER SUCH PROPERTY, WITH THE TAX RATE INCREASING EVERY YEAR THEREAFTER AT A RATE THAT DOES NOT EXCEED THE COLORADO CONSUMER PRICE INDEX;

AND IN CONNECTION THEREWITH, SHALL ALL OF THE REVENUES COLLECTED BE USED TO FUND:

- THE ADMINISTRATIVE COST OF THE TAX, AND THEREAFTER TO
- ESTABLISH, RUN AND FULLY FUND A PROGRAM TO PROVIDE LEGAL REPRESENTATION TO TENANTS WHO FACE THE LOSS OF HOUSING IN EVICTION AND ADMINISTRATIVE PROCEEDINGS;
- PROVIDE A TENANT'S LEGAL SERVICES AND ASSISTANCE COORDINATOR TO ADMINISTER THE PROGRAM;
- CREATE A TENANTS' COMMITTEE COMPRISED OF SEVEN MEMBERS PAID A \$1,000 PER YEAR STIPEND; AND

SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF DENVER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

CITIZEN INITIATED ORDINANCE

No Eviction Without Representation for Denver

Text of the Proposed Citizen's Initiated Ordinance:

Be it ordained by the people of the City of Denver:

SECTION 1. In the Denver Revised Code, add Article VIII to Chapter 27 of Title 12 as follows:

Article VIII. - No Eviction Without Representation.

Section 27-191. - Legislative declaration.

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The purpose of this chapter is to supplement the provisions of state law governing the rights and duties of landlords and tenants of residential property in the City of Denver, including providing a right to legal representation to all tenants in legal and administrative proceedings where such housing is imperiled.

Whereas, in the landmark case *Gideon v. Wainwright*, the United States Supreme Court declared that reason, reflection, and the fair administration of justice require that persons facing the loss of their liberty in criminal proceedings shall have the right to legal counsel;

Whereas, this protection does not extend to legal proceedings where tenants face the serious hardship of being forced out of their homes;

Whereas in the City of Denver, tenants do not have a right to counsel in such proceedings and most tenants face such proceedings without legal representation;

Whereas, between ninety-seven and ninety-nine percent of tenants did not have legal representation in eviction cases individually reviewed as part of a study of evictions in Denver occurring from 2014-2016;

Whereas, every landlord did have legal representation in those same cases reviewed as part of the study;

Whereas, in the few eviction cases individually reviewed as part of that study where a tenant had legal representation the tenant typically prevailed and was not evicted, but in cases where the tenant did not have legal representation they were evicted at substantially greater rates;

Whereas, in August of 2017 the City of New York enacted local legislation to provide tenants in that City with legal representation in eviction proceedings;

Whereas, in 2018-2020 the cities of San Francisco, Newark, Cleveland, Philadelphia, Boulder, and Baltimore also enacted legislation to provide tenants in those cities with legal representation in eviction proceedings;

Whereas cities enacting a right to counsel have already started to reap the benefits, as New York City has seen 86 percent of represented tenants remain in their homes, San Francisco has seen two-thirds of fully represented tenants remain in their homes, and in Cleveland 93% of represented tenants have avoided eviction or an involuntary move;

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Therefore, the people of the City of Denver declare that it is in the policy of the City of Denver that Denver tenants shall have a right to legal representation in eviction and administrative proceedings where they face the loss of housing, the City shall provide such representation to tenants to assist in the fair administration of justice.

Section 27-192. - Definitions.

The following terms used in this article have the following meanings unless the context clearly indicates otherwise:

Covered proceeding means legal proceedings to evict a tenant from their place of residence pursuant to C.R.S. 13-40-101 et seq., counterclaims related thereto, the termination of Section 8 housing assistance, and appeals arising from any of the foregoing, as well as any proceeding deemed by the Tenant's Legal Services Coordinator to be the functional equivalent thereof.

Legal representation means full scope representation provided by a licensed attorney to a tenant in a covered proceeding. This includes, but is not limited to, filing responsive pleadings, appearing on behalf of the tenant in court, administrative proceedings, or alternative dispute resolution, and providing legal advice, advocacy, and assistance associated with such matters, and necessary fees and costs related thereto.

Landlord means the owner, manager, lessor, or sublessor of a residential property.

Residential property means any dwelling unit, building, structure, vacant land, mobile home space, or part thereof, offered for lease or rent for residential purposes.

Tenant means any occupant of residential property who is a respondent or defendant, or who has legal standing to be a respondent or defendant, in a covered proceeding.

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Section 27-193.- Written Disclosures Required.

No landlord shall allow any person to occupy a rental property as a tenant or lessee or otherwise for valuable consideration unless and until that landlord has provided to such persons written notification of their right to legal representation provided in D.R.C. Article XIII, including a complete copy of the text of that Article.

Section 27-194. - NO EVICTION WITHOUT REPRESENTATION.

- 1) Provision of Legal Representation. The City of Denver shall establish, run, and fully fund a program to provide legal representation as a matter of right for all tenants within the city who face a covered proceeding to the greatest extent possible based on the program's funding. This legal representation shall be available to a tenant immediately upon request after the tenant is served with a notice to quit or demand for possession pursuant to C.R.S. 13-40-101 et. seq., or a notice of termination of Section 8 housing assistance, and shall last at least until such time as the notice to quit, demand for possession, or unlawful detainer complaint is withdrawn, the case is dismissed, a final judgment in the matter is entered, or the Section 8 housing assistance termination proceedings are concluded. Written notification of this right to legal representation and how to access it must be provided by the landlord to a tenant at the time the right to legal representation attaches as described under this Section, in addition to as provided in Section 27-193. The notice must include a complete copy of Article XIII of Chapter 27 of the Denver Revised Code.
- 2) Implementation. The Mayor shall promptly take all necessary steps to fully implement the provisions of this Article as soon as practicable, but not more than 12 months after the effective date of this ordinance. The City shall have no obligation to provide legal services under this Section where a state or federal program provides full scope legal representation to a tenant facing eviction proceedings as a matter of right.
- 3) Tenants' Committee. A Tenants' Committee is created to ensure that the legislative intent of this Article is fulfilled. Specifically, the Tenants' Committee shall oversee the Tenants' Legal Services and Assistance Coordinator and the legal service providers engaged to provide the services provided for herein, and shall advise the Mayor on its opinion of the merit and fitness of the Tenants' Legal Services and Assistance Coordinator for the purpose of informing and guiding the Mayor in appointing and retaining the Tenants' Legal Services and Assistance Coordinator. The Tenants' Committee shall consist of seven members who are tenants in the city of Denver and do not own real property. The Tenant's Committee members shall be selected by the City Council every two years and as vacancies arise in the interim. The City shall endeavor to ensure that the Committee membership is reflective of the racial, gender, and sexual orientation of the City's tenants. Committee members shall be disqualified and replaced as soon as practicable in the event that they cease to be qualified to serve on the committee. Committee members are to be paid a stipend of \$1,000 per year to be adjusted annually for inflation. The Mayor's office and City Attorney's office shall provide staff support to the Committee and Tenants' Legal Services and Assistance Coordinator.
- 4) Tenants' Legal Services and Assistance Coordinator. The Tenants' Legal Services and Assistance Coordinator shall serve at the pleasure of the Mayor and can be selected

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from the City of Denver's internal staff. The Tenants' Legal Services and Assistance Coordinator shall be responsible for contracting with and supervising legal service providers, including but not limited to non-profits, private law firms, and private attorneys, to ensure the provision of the legal representation provided for herein and the day-to-day responsibilities related thereto. The Tenants' Legal Services and Assistance Coordinator shall make its best efforts to allocate and facilitate the provision of legal representation to tenants in covered proceedings to maximize the housing security of said tenants to the greatest extent possible based on the program's funding. This shall include, but not be limited to, outreach to tenants who potentially qualify for representation through the program through, and in coordination with, the court system. The Tenants' Legal Services and Assistance Coordinator shall keep the Tenants' Committee informed as to its fulfillment of its responsibilities and shall be responsive to requests for information and inquiries from the Tenants' Committee.

5) Reporting.

No later than September 1, 2023 and annually by each September 1 thereafter, the Tenants' Legal Service and Assistance Coordinator shall submit to the Mayor and City Council, and post online, a review of the program established pursuant to this Article and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. The estimated number of individuals who experienced a covered proceeding;
2. The number of individuals who received legal representation, disaggregated by the following characteristics of such individuals:
 - I. Postal code of residence;
 - II. Age of head of household, household size, approximate household income, family status, race and ethnicity of members of household, and disability status of members of household;
 - III. Estimated length of tenancy;
 - IV. Receipt of ongoing public assistance at the time such legal services were initiated;
 - V. Tenancy in rent-regulated housing; and
 - VI. Tenancy in housing operated by the Denver Housing Authority;
3. Outcomes immediately following the provision of full legal representation, and information related thereto, as applicable and available, including, but not limited to, the number of:
 - I. Case dispositions where a case was dismissed or was otherwise decided substantially in favor of the tenant;
 - II. Case dispositions where judgment for possession in favor of landlord was entered;

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- III. Case dispositions where a stipulation agreement, or other similar agreement, was made preventing the entry of judgment for possession;
- IV. Case dispositions where a stipulation agreement, or other similar agreement, was made providing a tenant with an opportunity to vacate a judgement for possession at a later date;
- V. Case dispositions where a tenant was required to vacate a residence, but was provided additional time to vacate and, in such cases, the amount of additional time provided to such tenants; and
- VI. Case dispositions that otherwise resulted in a tenant vacating a residence prior to the end of their lease term;
- VII. Case dispositions that resulted in the reduction of rental arrears or other sums alleged owed by a represented party;
- VIII. Instances where the attorney was discharged or withdrew;
- IX. The nature of the allegation giving rise to the covered proceeding, such as type of alleged lease violation, amount of rent in dispute, etc.; and
- X. Referrals to rental assistance or mediation programs.

4. Orders for possession filed in county court, writs of restitution issued in county court in forcible entry and detainer proceedings, and residential evictions conducted by the county sheriff.

6) Dedicated Funding.

The spending obligations required by this Section are to be funded through the no eviction without representation tax levied pursuant to Section 27-195 of this Article. The revenues from this tax shall be designated for the administrative cost of the tax, and once that obligation has been fulfilled, used for implementation and administration and enforcement of a program to provide representation to tenants who face the loss of housing in covered proceedings, to provide a Tenant's Legal Services and Assistance Coordinator to administer the program; to create a Tenants' Committee whose members are paid a \$1,000 per year stipend; and to pay any related expenses. Funds generated in excess of the programs immediate needs are to be retained by the program as a reserve.

7) Amendment and Rulemaking.

The Denver City Council may amend this Article, and the Mayor may supplement the provisions of this Article through rulemaking, if such amendment or rulemaking serves the purpose of ensuring and effectuating the provision of legal representation to tenants faced with legal proceedings imperiling their homes.

8) Severability.

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If any provision of this Article or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provision or application of this Article that can be given effect without the invalid provision or application. To this end, the provisions of this Section are severable.

Section 27-195. - No Eviction Without Representation Tax.

- 1) All landlords shall pay an annual excise tax equal to \$75 multiplied by the number of individual, non-exempt residential properties leased by the landlord per year to fund the "no eviction without representation" program provided in Section 27-194 of Article XIII of Chapter 27. The \$75 multiplier used to calculate the annual excise tax shall be adjusted annually for inflation, as measured by the Consumer Price Index or similar index used for Colorado or the Denver metropolitan area.
- 2) A residential property is exempt if the landlord has submitted an Affidavit of Exemption for the exempt residential property to the City of Denver prior to the date the annual excise tax would have been due for the residential property; and
 - a) The residential property is occupied by the owner or members of the owner's family who are at least 21 years of age and housing no more than two roomers who are unrelated to the owner or the owner's family. An owner includes an occupant who certifies that the occupant owns an interest in a corporation, firm, partnership, association, organization or any other group acting as a unit that owns the rental property; or
 - b) The residential property meets all of the following conditions:
 - i) The dwelling unit constitutes the owner's principal residence;
 - ii) The dwelling unit is temporarily rented by the owner for a period of time no greater than twelve consecutive months in any twenty-four-month period;
 - iii) The dwelling unit was occupied by the owner immediately before its rental;
 - iv) The owner of the dwelling unit is temporarily living outside of the City of Denver; and
 - v) The owner intends to re-occupy the dwelling unit upon termination of the temporary rental period identified in subparagraph (2)(b) of this section.
- 3) The Administration, including collection and enforcement, of the excise tax provided in this Section 27-195 shall be handled in manner consistent with Division 1 of Article I of

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Chapter 53 of the Denver Revised Code's treatment of taxes imposed by Articles II through VIII of Chapter 53., except that:

- a) The Manager shall employ the investigative powers vested in it to identify taxpayers liable for the payment of tax imposed by this Section and to notify such taxpayers of same so as to proactively maximize the collection of the tax.

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Instructions to Circulators

Petition for Denver Initiated Ordinance

To Circulate a Petition

initiated ordinance petition may consist of multiple petition sections. There must only be one circulator for each petition section.

h petition section is bound in a blue manuscript cover and contains: A) an *Affidavit of Petitioners' Committee* containing ot title and full text, B) an *Instructions to Circulators* page, C) several numbered *Signature Pages* that contain a Warning tion at the top of each page, and D) an *Affidavit of Circulator* page.

id the Warning in this petition section to be aware of who may sign this petition and other legal restrictions on signers his petition.

etition section may not be left unattended on a counter or desk for voters to sign.

May Sign a Petition

rs must be residents of the City and County of Denver and registered to vote in Denver.

lators may not sign their own petition section. Notaries may not notarize a petition section they have signed.

To Sign a Petition - Signers Must:

it clearly.

blue or black ink. Do not use ditto marks ("") to provide information on a signature line.

out every required field completely, date it and sign it in the presence of the circulator.

their own signature and print their own legal name in the same manner as the person is registered: last name, first e, and middle initial. (For example: Mary Doe, not Mrs. John Doe)

the residence address where they reside and are registered to vote, including street name and street number, city and nty. Post office boxes may not be used as a place of residence.

e their initials on all minor corrections. If a major correction is required, the signer should cross out the entire pair of s containing the error and use the next pair of blank lines.

sign for another signer. However, any person **except the circulator** may assist a signer who has limited literacy or is sically unable to write the required information on the petition. The signer must make his or her mark in the signature e and the person giving assistance must provide their signature and a statement that assistance was given. This ement must be provided on the petition immediately following the name of the elector who received assistance.

To Do After Petition Section is Completed

not disassemble petition sections. If the original staples are removed, all names on the section are disqualified.

etition section does not have to be completely filled for the listed names to be valid.

Affidavit of Circulator must be properly signed and notarized. Do not sign or date your *Affidavit of Circulator* until in presence of the notary.

additional signatures may be collected after the *Affidavit of Circulator* is notarized. Any subsequent signatures are lid.

etition sections must be filed with the Elections Division at one time.

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Warning and Signature Page

Petition for Denver Initiated Ordinance

"WARNING:

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DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE IN THE CITY AND COUNTY OF DENVER:

Do not sign this petition unless you have read or had read to you the proposed initiative in its entirety and understand its meaning."

Ballot Title:

SEE ATTACHED

1.	Date:	Last Name:	First Name:	MI:	Year of Birth (Optional):
	Address – Number, Street, Unit #:		City/County:	Signature:	
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Denver Elections
Division

Affidavit of Circulator Petition for Denver Initiated Ordinance

I, _____, being duly sworn
(Circulator's Printed Name)

on oath depose and say that I have read and understand the laws governing the circulation of petitions; that

1. I was a citizen of the United States, and at least 16 years of age at the time this petition section was circulated and signed by the listed electors;
2. I personally circulated this section of the petition;
3. All signatures on this petition section were affixed in my presence;
4. Each signature hereon is the genuine signature of the person whose name it purports to be;
5. To the best of my knowledge and belief, each of the persons signing this petition section was, at the time of signing, a registered elector of the City and County of Denver;
6. I have not paid and will not in the future pay and that I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the signer to affix the signer's signature to the petition; and
7. Each signer had an opportunity to read the full text and ballot title of this initiative.

(Signature of Circulator)

(Date)

(Circulator's Permanent Residential Address)

STATE OF COLORADO
CITY AND COUNTY _____

Subscribed and sworn to me on this
_____ day of _____,

My commission expires: _____

(Signature of Notary Public)

[SEAL]

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CLERK & RECORDER
CITY & CNTY. DENVER