

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2026

COUNCIL BILL NO. **XX-XXXX**
COMMITTEE OF REFERENCE:
4 Transportation and Infrastructure

5 **A BILL**

6 **For an ordinance amending chapter 10, article XIV, of the Denver Revised**
7 **Municipal Code concerning High-Performance Existing Buildings.**

8
9 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** That chapter 10, article XIV, of the Code, concerning High-Performance Existing
11 Buildings, shall be amended by deleting the language stricken below and adding the language
12 underlined below, to read as follows:

13
14 **ARTICLE XIV. HIGH-PERFORMANCE EXISTING BUILDINGS PROGRAM**

15
16 **Sec. 10-400. Definitions.**

17
18 The following words and phrases, as used in this article XIV, shall have the following
19 meanings:

- 20 (a) *Benchmarking*: ~~M~~measuring a covered building's energy performance using the
21 ENERGY STAR portfolio manager tool or other platforms as CASR may designate.
- 22 (b) *Benchmarking Submission*: ~~T~~the data submitted each year via the ENERGY STAR
23 portfolio manager tool, or other platforms as CASR may designate, using a template
24 and submission link to be distributed and publicized by CASR. All information expressly
25 denoted as mandatory by either ENERGY STAR portfolio manager or CASR shall be
26 included in the submission.
- 27 (c) *CASR*: ~~T~~the office of climate action, sustainability, and resiliency.
- 28 (d) *Covered building*: ~~every building or structure that is regulated by the Denver Building~~
29 ~~and Fire code and that is not a detached one- or two-family dwelling or townhouse not~~
30 ~~more than three stories above grade plane height with a separate means of egress,~~
31 ~~and their accessory structures are not more than three stories above grade plane in~~
32 ~~height as defined in Section [A] 101.2 Scope section of the 2021 International Building~~
33 ~~Code.~~
34 (1) For purposes of benchmarking requirements in Section 10-403, a covered
35 building is any commercial or multifamily individual building in the City and

1 County of Denver ~~except~~ does not include the following, as must be
2 demonstrated by the owner:

- 3 i. A building that was not occupied, ~~and~~ or did not have a certificate of
4 occupancy or temporary certificate of occupancy, for all twelve (12)
5 months of the calendar year for which benchmarking is required;
- 6 ii. A building that was not occupied, due to renovation, for all twelve (12)
7 months of the calendar year for which benchmarking is required;
- 8 iii. A building for which a demolition permit for the entire building has been
9 issued and for which demolition work has commenced on or before the
10 date the benchmarking report is due;
- 11 iv. A building that is presently experiencing qualifying financial distress, as
12 defined; ~~by any of the following: (1) the building is the subject of a~~
13 ~~qualified tax lien sale or public auction due to property tax arrearages;~~
14 ~~(2) the building is controlled by a court appointed receiver; or (3) the~~
15 ~~building has been acquired by a deed in lieu of foreclosure;~~
- 16 ~~v. A building that is used primarily for manufacturing or agricultural~~
17 ~~processes; this exclusion applies only if a facility where the majority of~~
18 ~~energy is consumed for manufacturing, agriculture, or for other process~~
19 ~~loads. Process loads are energy consumed for bona fide purposes other~~
20 ~~than heating, cooling, ventilation, domestic hot water, cooking, lighting,~~
21 ~~appliances, office equipment, data centers, or other plug loads.~~
- 22 v. A stand-alone parking garage; or
- 23 vi. A building that is used for the generation of power produced and sold
24 commercially to other parties and that meets the definition of the
25 Energy/Power Station building type, as defined by ENERGY STAR
26 Portfolio Manager.

27 (2) For purposes of existing building performance requirements in Section 10-404,
28 a covered building is ~~any commercial or multifamily individual building in the City~~
29 ~~and County of Denver except~~ does not include the following, as must be
30 demonstrated by the building owner:

- 31 i. A building for which a demolition permit for the entire building has been
32 issued and for which demolition work has commenced on or before the
33 particular compliance date.
- 34 ii. A stand-alone parking garage; or

1 iii. A building that is used for the generation of power produced and sold
2 commercially to other parties and that meets the definition of the
3 Energy/Power Station building type, as defined by ENERGY STAR
4 Portfolio Manager.

5 (3) For purposes of existing building performance requirements in Section 10-405,
6 a covered building does not include the following, as must be demonstrated by
7 the building owner:

- 8 i. A building for which a demolition permit for the entire building has been
9 issued and for which demolition work has commenced on or before the
10 building's prescribed compliance deadline, or
11 ii. A building that had received their Certificate of Occupancy or Temporary
12 Certificate of Occupancy on or after November 22, 2021.

13 (e) Covered Manufacturing/Agricultural/Industrial Building or Covered MAI Building: a
14 covered building where energy is consumed in process loads for manufacturing,
15 agricultural, or industrial purposes. Process loads are energy consumed for bona fide
16 purposes other than comfort heating and cooling, ventilation, domestic hot water,
17 cooking, lighting, appliances, office equipment, small, or other plug loads. This
18 classification also includes buildings with Class A data centers as defined by rule, food
19 manufacturing, and the ENERGY STAR Portfolio Manager building types Drinking
20 Water Treatment & Distribution, Other – Utility, and Wastewater Treatment Plant.
21 Multi-use buildings with at least one tenant that meets this definition may be classified
22 as a Covered MAI Building.

23 (ef) Covered municipal building: A covered building that is owned and/or operated by the
24 City and County of Denver.

25 (fg) ENERGY STAR portfolio manager: The online tool created by the U.S. Environmental
26 Protection Agency Government used to measure and track a building's energy use,
27 water consumption, and greenhouse gas emissions.

28 (gh) Executive director: The executive director of the office of climate action, sustainability,
29 and resiliency.

30 (hi) Existing building performance: The energy efficiency and renewable energy of a
31 covered building measured by site energy use intensity (EUI), or EUI adjusted for
32 renewable energy using data reported via the ENERGY STAR portfolio manager tool
33 or other platforms as CASR may designate.

- 1 (j) *Financial solvency concerns*: a vacancy rate for the covered building that reduces the
2 net operating income so that the debt-service coverage (DSCR) ratio is less than 1.25;
3 the non-renewal of a tenant, costs to renew a tenant, or costs of finding a replacement
4 tenant would reduce the DSCR to less than 1.25; or loan maturities, interest rate resets,
5 capitalization rate movements, and insurance rate changes that reduce the DSCR to
6 less than 1.25. This definition also includes if the Covered Building does not currently
7 meet the definition of Qualifying Financial Distress and the requirements of D.R.M.C.
8 § 10-404 or § 10-405, but Owner can demonstrate that the required upgrades would
9 cause the Covered Building to go into qualifying financial distress.
- 10 (ik) *Gross floor area or GFA*: ~~the total property building square footage, measured~~
11 between the outside surface of the principal exterior surfaces of the enclosing fixed
12 walls of a building, as defined in the ENERGY STAR portfolio manager definitions.
13 GFA should include lobbies, tenant areas, common areas, meeting rooms, break
14 rooms, atriums (base level only), restrooms, elevator shafts, stairwells, mechanical
15 equipment areas, basements, storage rooms. GFA should not include exterior spaces,
16 balconies, patios, exterior loading docks, driveways, covered walkways, outdoor play
17 courts, parking, or crawl spaces.
- 18 (jl) *High-performance existing buildings program*: ~~the administrative program~~
19 implemented by CASR requiring the benchmarking, reporting, and existing building
20 performance in commercial and multifamily buildings that are located within the City
21 and County of Denver.
- 22 (m) *Lighting Load*: the energy used to power electric lights in a building's interior, exterior,
23 and parking areas as measured in kilowatt hours. The calculation of lighting load shall
24 include all lighting that is connected to the building's electrical meter(s).
- 25 (n) *Lighting Power Density or LPD*: the lighting power in watts per square foot.
- 26 (o) *New Covered Building*: a covered building equal to or greater than twenty-five
27 thousand (25,000) square feet in gross floor area that received its certificate of
28 occupancy after November 22, 2021.
- 29 (p) *New Covered MAI Building*: a covered building equal to or greater than twenty-five
30 thousand (25,000) square feet in gross floor area that meets one of the following
31 criteria:
- 32 (1) New construction where the building received its certificate of occupancy after
33 November 22, 2021 and meets the definition of a covered MAI building.

1 (2) A covered MAI building that undergoes an alternation or change of
2 occupancy/use as defined by Denver Energy Code (DEC) Chapter 5, and has
3 updated their building to comply with DEC Sections C403, C405.1, C405.2,
4 C405.3, C405.4, and C408 as applicable to the type of occupancy and project
5 type.

6 (3) A covered MAI building that has substantially upgraded their energy-using
7 systems and has petitioned CASR and received approval for the building to be
8 considered a “new covered MAI building” for performance requirements in Sec.
9 10-404.

10 (kg) Owner: ~~F~~the person or entity having a legal or equitable interest in real property and
11 its fixtures and appurtenances, which shall explicitly include but not be limited to a
12 homeowner's association.

13 (r) Performance measurement period: the defined timeframe of benchmarking data that
14 is used for evaluation of energy performance requirements, usually January 1 to
15 December 31 in the year the target is due.

16 (s) Qualifying financial distress: any of the following: (1) the building is the subject of a
17 qualified tax lien sale or public auction due to property tax arrearages; (2) the building
18 is controlled by a court appointed receiver; or (3) the building has been acquired by a
19 deed in lieu of foreclosure.

20 (t) Renewable Energy: useful electrical, thermal, or mechanical energy converted directly
21 or indirectly from resources of continuous energy flow or that are perpetually
22 replenished and whose utilization is sustainable indefinitely and can be measured in
23 kilowatt hours (kWh). The term includes, if it can be measured in kWh provided,
24 sunlight, wind, geothermal energy, hydrodynamic forces, and organic matter available
25 on a renewable basis such as forest residues, agricultural crops and wastes, wood and
26 wood wastes, animal wastes, livestock operation residue, aquatic plants, and
27 municipal wastes.

28 (u) Residential Condominium: if the property is a condominium or cooperative, each as
29 defined in the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq.,
30 as amended, the responsible party shall be the association, as defined in the act.

31 (tv) Site energy use intensity or EUI: A building's weather normalized site energy use
32 expressed as energy per square foot per year as a function of its size, normalized for
33 weather and other characteristics that are significant drivers of energy performance as
34 feasible with the reporting platform used. A building's EUI is calculated by dividing the

1 total energy consumed by the building in one (1) calendar year (measured in kBtu) by
2 the total gross floor area of the building.

3 (w) Tenant: a person or entity having a legal or equitable interest in the possession,
4 occupancy, or the benefits of real property and its fixtures and appurtenances under a
5 lease or similar legal instrument.

6 (x) Transportation energy use: for use in this chapter, energy sourced from building utility
7 meters that is sub-metered and consumed in vehicles that take people or goods from
8 one place to another. This includes but is not limited to electric vehicles, compressed
9 natural gas fleet vehicles, and electric or compressed natural gas forklifts, but does not
10 include elevators or escalators. Transportation energy use is considered non-building
11 energy use in this chapter.

12 13 **Sec. 10-401. Purpose.**

14
15 The purpose of this article is first to establish a high-performance existing buildings program
16 that requires covered building owners to benchmark building energy performance, and to make such
17 energy performance information publicly available in order to raise awareness and drive action. The
18 article's purpose is also to require covered building owners to address existing building performance
19 through energy efficiency, renewables energy generation, and/or renewable heating and cooling
20 (electrification) to reduce greenhouse gas emissions from the built environment to further the City
21 and County of Denver's climate action goal of zero greenhouse gas emissions in existing buildings
22 by 2040.

23 24 **Sec. 10-402. Applicability.**

25
26 The high-performance existing buildings program shall apply to all ~~commercial and multifamily~~
27 covered buildings equal to or greater than five thousand (5,000) square feet within the City and
28 County of Denver.

29 30 **Sec. 10-403. Benchmarking and reporting.**

31
32 (a) Each owner of a covered building with a gross floor area equal to or greater than
33 twenty-five thousand (25,000) square feet shall benchmark the building's energy usage
34 annually using the ENERGY STAR portfolio manager tool, or other platform as CASR

1 may designate, and by June 1 each year, accurately report energy performance
2 information to CASR for the previous calendar year.

3 (b) The energy performance information that must be reported to CASR shall include, at
4 a minimum, a covered building's annual energy use intensity, ENERGY STAR portfolio
5 manager score if eligible for a score, greenhouse gas emissions, and any other data
6 fields needed to calculate the ENERGY STAR portfolio manager score for auditing and
7 verification purposes. Specific energy uses as defined by CASR by rule may be
8 excluded from the whole building energy use if sub-metered that include, but are not
9 limited to, heated swimming pools, parking lighting, and parking ventilation.

10 (c) CASR shall create a process by rule for owners of covered buildings to apply for an
11 extension in time to complete a benchmarking submission for reasons that include, but
12 are not limited to, a delay in receiving data from the utility company, a change in
13 ownership or management, or resolving required revisions in that year's benchmarking
14 submission.

15 (ed) Owners of covered buildings with a gross floor area equal to or greater than twenty-
16 five thousand (25,000) square feet shall keep records of monthly energy consumption
17 for a minimum of twenty-four (24) months. Such records shall be made available to
18 CASR for inspection upon request.

19
20 **Sec. 10-404. Existing building performance for covered buildings with a gross floor area**
21 **equal to or greater than 25,000 square feet.**

22
23 (a) *In general.* Owners of covered buildings with a gross floor area equal to or greater than
24 twenty-five thousand (25,000) square feet must meet energy performance targets in
25 calendar years 2025~~4~~, 2027 and 2030. The targets will be set for 2030 for every
26 covered building type in Denver such that thirty (30) percent total energy savings
27 across all covered buildings is achieved. CASR shall establish the rules by which every
28 covered building will be assigned a building type. If a covered building's type changes
29 over time, then CASR shall update the established target to align to the new building
30 type. CASR will establish each covered building's required interim targets for 2025~~4~~
31 and 2027 by drawing a straight line from that covered building's 2019 baseline year
32 EUI to the final EUI target for that building type. Renewable ~~power~~ energy generation
33 on-site or off-site or transportation energy use as defined, as measured in kWh
34 ~~delivered to the grid by the system or therms used~~, will be credited towards energy

1 use, lowering the EUI. After 2030, CASR is empowered to set new EUI final targets for
2 2040, 2050, and beyond through a rulemaking process with robust stakeholder input
3 as CASR deems necessary to reach the city's climate goals.

4 (b) *Establishing baseline year and EUI.*

5 (1) For ~~existing~~ covered buildings that reported for benchmarking in 2019, the baseline
6 shall be the EUI that was reported for the covered building that year.

7 (2) For ~~existing~~ covered buildings where no baseline data was received for 2019,
8 CASR will establish a reasonable baseline based on the building type and
9 benchmarking data from other years for that covered building if available.

10 (3) For covered buildings where 2019 does not reflect the building's normal business
11 operations, the owner of the covered building may apply to use 2018 or 2020 as
12 their baseline year. If a substantial renovation happens such that 2019 no longer
13 reflects the normal energy use of the building, CASR can approve another baseline
14 year.

15 (34) For ~~N~~ew ~~C~~overed ~~B~~uildings that received their certificate of occupancy after
16 January 13, 2022, CASR shall establish a reasonable baseline using the Covered
17 Building's first- or second-year Benchmarking Submission or the baseline shall be
18 the predicted EUI for that covered building if ~~one~~ (1) a predicted EUI was
19 submitted as part of energy code compliance. If ~~no predicted EUI is available,~~
20 CASR will establish a reasonable baseline based on the building type.

21 (c) *Establishing interim targets.*

22 (1) For ~~existing~~ covered buildings that reported for benchmarking in 2019, CASR
23 will set required interim targets by May 1, 2022.

24 (2) For ~~existing~~ covered buildings where no baseline data was received for 2019,
25 or if CASR has determined that the building type needs to be reviewed and
26 possibly corrected for submission in the 2022 benchmarking report, CASR will
27 set required interim targets by September 1, 2022.

28 (3) For ~~n~~New ~~e~~Covered ~~b~~Buildings, CASR will set required interim targets within 6
29 months of receiving the first benchmarking report for that building.

30 (d) *Existing building performance compliance demonstration.*

31 (1) Owners of covered buildings with a gross floor area equal or greater than
32 twenty-five thousand (25,000) square feet shall use the ENERGY STAR
33 portfolio manager tool or other platform that CASR may designate, and report
34 to CASR the following:

- 1 i. In the benchmarking report due on June 1, 2026~~5~~, a demonstration that
2 the covered building has met the interim energy performance target for
3 calendar year 2025~~4~~.
- 4 ii. In the benchmarking report due on June 1, 2028, a demonstration that
5 the covered building has met the interim energy performance target for
6 calendar year 2027.
- 7 iii. In the benchmarking report due on June 1, 2031, a demonstration that
8 the covered building has met the final energy performance target for
9 calendar year 2030.
- 10 iv. If the covered building has an approved timeline extension, the
11 demonstration of compliance method and due dates will be stated in the
12 timeline extension notice.

13 (2) Each owner of a covered building must maintain the interim targets each
14 subsequent year and must maintain the final energy performance target
15 indefinitely. Maintenance of the interim and 2030 EUI targets shall be
16 demonstrated annually using the Covered Building's Benchmarking
17 Submission.

18 (3) If a covered building becomes exempt from submitting a benchmarking
19 submission in a performance measurement period, the owner must have an
20 approved alternate compliance option on file.

21 (4) CASR may define by rule additional requirements for third-party data verification
22 of benchmarking submissions, target incentives and adjustments, renewable
23 energy generation credits, transportation energy use credits, or other similar
24 functions.

25 (3e) CASR shall create alternate compliance options by rule that add flexibility for
26 covered building owners while achieving the same end goal. Such options shall
27 include, but are not limited to, a process to adjust timing for meeting the above
28 requirements, including in cases of qualifying financial distress or financial solvency
29 concerns; a process to adjust the end goal due to a building use or inherent
30 characteristic of the building;~~;~~ prescriptive options for smaller buildings or residential
31 condominiums;~~;~~ and compliance options for covered MAI buildings—where
32 manufacturing and agricultural processes are the primary energy users. CASR may
33 also create alternate compliance options that allow compliance through reductions in
34 greenhouse gas emissions that are equivalent to a covered building's target.

1 ~~(e) Disclosure upon sale. The owner of a covered building shall disclose the covered~~
2 ~~building's compliance status, including all performance targets, any approved alternate~~
3 ~~compliance pathways, and any penalties assessed, to a prospective buyer prior to the~~
4 ~~sale of the building. The owner shall disclose to all prospective buyers the covered~~
5 ~~building's compliance status in all documentation or advertising concerning the sale of~~
6 ~~the covered building including, but not limited to, any listings, notices, advertisements~~
7 ~~of sale, term sheets, and contracts of sale.~~

8
9 **Sec. 10-405 Existing building performance for covered buildings with a gross floor**
10 **area of 5,000—24,999 square feet.**

11
12 (a) Owners of covered buildings with a gross floor area of five thousand (5,000)—twenty-
13 four thousand nine hundred ninety-nine (24,999) square feet shall either certify that a
14 minimum of 90% of the building's total lighting load is provided by LED lighting, ~~they~~
15 ~~have installed all LED lights~~ or that they have achieved an equivalent lighting power
16 density ~~to what all LEDs would have resulted in.~~ Alternatively, owners of covered
17 buildings may install solar panels or purchase off-site solar that generates enough
18 electricity to meet twenty (20) percent of the building's annual energy usage.

19 ~~(a)(b)~~ Owners of covered buildings will be required to comply by the following schedule:

20 (a~~1~~) December 31, 202~~6~~⁵: buildings ~~15,001-20,000~~—24,999 square feet.

21 (b~~2~~) December 31, 202~~7~~⁶: buildings ~~15,000-19,999~~—15,000-19,999 square feet.

22 (c~~3~~) December 31, 202~~8~~⁷: buildings ~~510,000—14,999~~—14,999-19,999 square feet.

23 (4) December 31, 2029: buildings 5,000-9,999 square feet.

24 (c) CASR shall create alternate compliance options by rule that add flexibility for covered
25 building owners while achieving the same end goal in energy or equivalent greenhouse
26 gas emission reductions.

27
28 **Sec. 10-406. Disclosure upon sale and transfer of compliance data.**

29 (a) The owner of a covered shall disclose the covered building's compliance status,
30 including all compliance requirements, any approved alternate compliance options,
31 and any penalties assessed, to a prospective buyer prior to the sale of the building.
32 The owner shall disclose to all prospective buyers the covered building's compliance
33 status in all documentation or advertising concerning the sale of the covered building

1 including, but not limited to, any listings, notices, advertisements of sale, term sheets,
2 and contracts of sale.

3 (b) For covered buildings equal to or greater than 25,000 square feet in gross floor area,
4 as part of the sale transaction, the owner of a covered building is required to transfer
5 the ENERGY STAR Portfolio Manager account (or account from another CASR-
6 designated platform) to the new building owner.

7
8 **Sec. 10-4076. Authority to adopt rules and regulations.**

9
10 The executive director is authorized to adopt rules and regulations the executive director may
11 deem proper to implement the provisions of this article XIV, the high-performance existing buildings
12 program.

13
14 **Sec. 10-4087. Enforcement.**

15
16 (a) It is unlawful for any person to violate any provision of this article XIV or any rules or
17 regulations adopted pursuant to this article XIV.

18 (b) The executive director, or the executive director's designee, is empowered to enforce
19 the provisions of this article XIV, ~~and any rules and regulations adopted pursuant to~~
20 this article, and any orders issued pursuant to this article, and may issue notices or
21 orders for violations of this article XIV. When such enforcement is pursued through
22 administrative citations and civil penalties, the executive director shall act in
23 accordance with article XII of chapter 2 of the Code, with the executive director, or the
24 executive director's designee, acting as the manager.

25 (c) Upon receiving a notice of violation, as described in article XII of chapter 2 of the Code,
26 an owner of a covered building will have ninety (90) calendar days to come into
27 compliance before an administrative citation is issued. An owner of a covered building
28 who has received a notice of violation with respect to performance requirements in
29 section 10-404 or 10-405 may apply for an alternate compliance option or a corrective
30 action plan as defined by CASR in rule. Such application must be received by CASR
31 within 90 days of the date the building owner received the notice of violation, and such
32 application will toll the issuance of an administrative citation until CASR has had time
33 to review and make a decision on such application.

1 (d) Appeals of administrative citations shall be conducted in accordance with article XII of
2 chapter 2 of the Code, except that a person served with an administrative citation under
3 this article XIV shall have thirty (30) calendar days from the service of the notice of the
4 administrative citation to file a notice of appeal.

5 (ee) This article applies to all agents, successors and assigns of an owner.

6 ~~(df) The executive director, or the executive director's designee, may issue notices or~~
7 ~~orders for violations of this article XIV. Any covered building owner who violates any~~
8 ~~provision of this article XIV, including any rules or regulations adopted pursuant to this~~
9 ~~article, is subject to a civil penalty, amount of up to seventy cents (\$0.70) per year for~~
10 ~~each required kBtu reduction that the owner's covered building fails to achieve in that~~
11 ~~year.~~

12 (1) For Sec. 10-403:

13 (i) A \$2,000 civil penalty may be assessed annually for each violation of
14 failing to submit the annual benchmarking submission, failing to correct
15 errors in that submission, withholding required information, providing
16 inaccurate data, or failing to provide third-party data verification when
17 required.

18 (2) For Sec. 10-404:

19 (i) For covered buildings with three target year performance measurement
20 periods, a civil penalty may be assessed of up to fifteen cents (\$0.15) per
21 target year for each required kBtu reduction that the building fails to
22 achieve that year. If in the final target year, the covered building does
23 not achieve the 2030 target, the civil penalty may be assessed annually
24 thereafter.

25 (ii) For covered buildings with two target year performance measurement
26 periods, a civil penalty may be assessed of up to twenty-three cents
27 (\$0.23) per target year for each required kBtu reduction that the building
28 fails to achieve that year. If in the final target year, the covered building
29 does not achieve the 2030 target, the civil penalty may be assessed
30 annually thereafter.

31 (iii) For covered buildings with one target year performance measurement
32 period, a civil penalty may be assessed of up to thirty-five cents (\$0.35)
33 per target year for each required kBtu reduction that the building fails to
34 achieve that year. If in the final target year, the covered building does

1 not achieve that 2030 target, the civil penalty may be assessed annually
2 thereafter.

3 (iv) If an owner of a covered building fails to submit a timeline extension by
4 the deadline defined by rule, a civil penalty of up to ten cents (\$.10) may
5 be added to the penalty amounts for each kBtu as stated in subsections
6 (i)-(iii).

7 (v) For covered buildings that do not submit an approved benchmarking
8 submission in the year of the target year performance measurement
9 period, a civil penalty may be assessed of up to five dollars (\$5.00) per
10 square foot as listed by the Office of the Assessor. If in the final target
11 year, the covered building does not achieve the 2030 target, the civil
12 penalty may be assessed annually thereafter.

13 (vi) For new covered buildings or new covered MAI buildings, a civil penalty
14 may be assessed of up to fifteen cents (\$0.15) per target year for each
15 required kBtu reduction that the building fails to achieve that year. If in
16 the final target year, the covered building does not achieve the 2030
17 target, the civil penalty may be assessed annually thereafter.

18 (vii) For covered buildings that have met their final target, but in subsequent
19 years report an EUI that is non-compliant with the final target but is out
20 of compliance 5% or less from the final target, a civil penalty may be
21 assessed or up to five cents (\$0.05) for each required kBtu reduction that
22 the building fails to achieve that year. If the reported EUI is out of
23 compliance more than 5% from the final target, a civil penalty may be
24 assessed of up to fifteen cents (\$0.15) per year for each required kBtu
25 reduction that the building fails to achieve that year.

26 (3) For Sec. 10-405:

27 (i) If an owner of a covered building fails to correct errors in a benchmarking
28 submission, withholds information necessary for compliance
29 determination, or provides inaccurate compliance information after the
30 deadline, the building will be deemed non-compliant with the
31 requirements.

32 (ii) A civil penalty may be assessed of up to one dollar and sixty cents
33 (\$1.60) per square foot of gross floor area as listed by the Office of the
34 Assessor for failure to certify compliance by the covered building's

1 required deadline. Civil penalties may be reduced for partial compliance
2 based on percent of square footage in compliance or up to thirty-three
3 cents (\$0.33) per kBtu reduction not achieved.

4 (4) A \$5,000 civil penalty may be assessed on the owner of a covered building for
5 each violation for failure to transfer the building's ENERGY STAR Portfolio
6 Manager account (or account from another CASR-designated platform) to the
7 building's new owner per Section 10-406.

8 (g) If an administrative citation or administrative enforcement order has been issued on a
9 covered building that includes assessed penalties, the executive director or designee
10 may allow the owner to reinvest a portion or entirety of the assessed penalties towards
11 implementing measures that would ensure the covered building meets its target. This
12 would require the owner to submit a compliance plan as defined by CASR by rule that
13 identifies the proposed measures, associated costs, expected energy savings,
14 implementation timeline, and methodology for compliance documentation.

15 (eh) If a covered building owner subject to ~~the~~ civil penalties ~~above~~ fails to pay the required
16 amount within one hundred eighty (180) days, the civil penalty will be considered a
17 debt to the city until paid in full. The debt is a perpetual lien on the property, and is
18 superior and prior to all other liens, regardless of their dates of recordation, except for
19 liens for general taxes and prior special assessments, until the civil penalty owed,
20 delinquent interest, and recording fees have been paid in full. In addition to the
21 remedies set forth in this section, an action or other process provided by law may be
22 maintained by the city to recover or collect any amounts, including interest, owing
23 under this section. Interest is calculated in the same manner and same amount as
24 delinquent property taxes. The executive director must record the lien with the clerk
25 and recorder.

26
27 COMMITTEE APPROVAL DATE: ****Committee Agenda Date****

28 MAYOR-COUNCIL DATE: ****Mayor-Council Agenda Date****

29 PASSED BY THE COUNCIL: _____

30 _____ - PRESIDENT

31 APPROVED: _____ - MAYOR _____

32 ATTEST: _____ - CLERK AND RECORDER,
33 EX-OFFICIO CLERK OF THE
34 CITY AND COUNTY OF DENVER

35 NOTICE PUBLISHED IN THE DENVER POST: _____ ; _____

1 PREPARED BY: Kristin Brainerd, Assistant City Attorney

DATE: ****Filing Date****

2 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
3 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
4 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
5 of the Charter.

6

7 Miko Ando Brown, Denver City Attorney

8

9 BY: _____, Assistant City Attorney DATE: _____